CITY COUNCIL MEETING AGENDA

7:00 PM - Tuesday, April 09, 2024

via Videoconference and In Person

PARTICIPATION: Members of the public may participate by being present at the Los Altos Council Chamber at Los Altos City Hall located at 1 N. San Antonio Rd, Los Altos, CA during the meeting. Public comment is accepted in person at the physical meeting location, or via email to PublicComment@losaltosca.gov.

RULES FOR CONDUCT: Pursuant to Los Altos Municipal Code, Section 2.05.010 "Interruptions and rules for conduct": Understanding that the purpose of the city council meetings is to conduct the people's business for the benefit of all the people, in the event that any meeting of the city council is willfully interrupted by a person or group of persons so as to render the orderly conduct of the meeting impossible, the mayor, mayor pro tem, or any other member of the city council acting as the chair may order the removal of the person or persons responsible for the disruption and bar them from further attendance at the council meeting, or otherwise proceed pursuant to Government Code Section 54957.0 or any applicable penal statute or city ordinance.

REMOTE MEETING OBSERVATION: Members of the public may view the meeting via the link below, but will not be permitted to provide public comment via Zoom or telephone. Public comment will be taken in-person, and members of the public may provide written public comment by following the instructions below.

https://losaltosca-gov.zoom.us/j/87477676054?pwd=NbVaGbG0RTUVuE9Su1bTTiSlzKr1uf.1

Telephone: 1-669-444-9171 / Webinar ID: 874 7767 6054 / Passcode: 852914

SUBMIT WRITTEN COMMENTS: Prior to the meeting, comments on matters listed on the agenda may be emailed to PublicComment@losaltosca.gov. Emails sent to this email address are sent to/received immediately by the City Council. Emails sent directly to the City Council as a whole or individually, and not sent to PublicComment@losaltosca.gov will not be included as a public comment in the Council packet.

Please note: Personal information, such as e-mail addresses, telephone numbers, home addresses, and other contact information are not required to be included with your comments. If this information is included in your written comments, they will become part of the public record. Redactions and/or edits will not be made to public comments, and the comments will be posted as they are submitted. Please do not include any information in your communication that you do not want to be made public.

Correspondence submitted in hard copy/paper format must be received by 2:00 p.m. on the day of the meeting to ensure distribution prior to the meeting. Comments provided in hard copy/paper format after 2:00 p.m. will be distributed the following day and included with public comment in the Council packet.

The Mayor will open public comment and will announce the length of time provided for comments during each item.

AGENDA

CALL MEETING TO ORDER

ESTABLISH QUORUM

PLEDGE ALLEGIANCE TO THE FLAG

REPORT ON CLOSED SESSION

CHANGES TO THE ORDER OF THE AGENDA

SPECIAL ITEMS

Recognition of Arab American Heritage Month

Recognition of Earth Day 2024

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Members of the audience may bring to the Council's attention any item that is not on the agenda. The Mayor will announce the time speakers will be granted before comments begin. Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during the Public Comment Period. According to State Law (also known as "The Brown Act") items must first be noted on the agenda before any discussion or action.

04-09-2024 Written Public Comments

CONSENT CALENDAR

These items will be considered by one motion unless any member of the Council or audience wishes to remove an item for discussion. Any item removed from the Consent Calendar for discussion will be handled at the discretion of the Mayor.

1. Approve the draft regular meeting minutes for the meeting of March 26, 2024

2. Authorize the City Manager to execute the Subdivision Improvement Agreement and approve Final Parcel Map for 14 Fourth Street

3. Adopt a Resolution approving the appointment of Sarina Revillar, a CalPERS Retiree, as Interim Finance Director to comply with Government Code Section 21221(h)

4. Adopt a Resolution approving the raising of the Progress Pride flag in June 2024

5. Adopt a Resolution approving the raising of the Juneteenth flag in June 2024

PUBLIC HEARINGS

6. **ADU Ordinance Amendments:** Introduce and Waive Further Reading of Zoning Ordinance Text Amendments which implement programs identified in the adopted housing element, Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs), and Program 6.G: Housing Mobility, and necessary amendments to comply with State law; and consideration of the City of Los Altos Planning Commission's March 21, 2024, recommendation with modifications and find that this ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970

DISCUSSION ITEMS

7. Program Modification and Recommendations for Tiny Tots Programs and Award Three-year Agreement with Children's Corner to operate Preschool-age Services

8. Discuss the Criteria for Art in Public Places

9. Discuss and consider taking positions on various Senate and Assembly Bills

INFORMATIONAL ITEMS ONLY

There will be no discussion or action on Informational Items

10. Tentative Council Calendar and Housing Element Update Implementation Calendar

11. Organizational Update from Community Health Awareness Council (CHAC)

COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS

ADJOURNMENT

(Council Norms: It will be the custom to have a recess at approximately 9:00 p.m. Prior to the recess, the Mayor shall announce whether any items will be carried over to the next meeting. The established hour after which no new items will be started is 11:00 p.m. Remaining items, however, may be considered by consensus of the Council.)

SPECIAL NOTICES TO THE PUBLIC

In compliance with the Americans with Disabilities Act, the City of Los Altos will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Clerk 72 hours prior to the meeting at (650) 947-2610.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, and that are distributed to a majority of the legislative body, will be available for public inspection at the Office of the City Clerk's Office, City of Los Altos, located at One North San Antonio Road, Los Altos, California at the same time that the public records are distributed or made available to the legislative body.

If you wish to provide written materials, please provide the City Clerk with 10 copies of any document that you would like to submit to the City Council for the public record.

Melissa Thurman

From: Ken Girdley <kengirdley@yahoo.com>
Sent: Friday, March 29, 2024 10:27 AM
To: Public Comment; City Council
Subject: Repeal Los Altos Gas Appliance Ban NOW

Dear Mayor and Council Members,

Many residents of Los Altos are expecting city council to immediately repeal the current ban on gas appliances in new construction and major remodels based on the recent appellant court's decision to force Berkeley to repeal their gas appliance ban. I hope our city council is not waiting for a resident to file a lawsuit before repealing the ban because as we all know, lawsuits can be very costly for both parties.

Ken Girdley
Los Altos Resident

Melissa Thurman

From: Mar P <psychiatrymp@gmail.com>
Sent: Sunday, April 7, 2024 6:10 AM
To: Public Comment
Subject: Public written comment for 4/9/24 Agenda item #7: Tiny Tots/ Kinder Prep Preschool

Dear Los Altos City Councilmembers,
As you vote on the city's proposed plan for the **Tiny Tots/Kinder Prep preschool on 4/9/24**, I thank you in advance for considering the strong opposition of many community members to this plan. I thank you as well for the attention which you have already given to our concerns. **I strongly oppose this plan. I urge you to reject this plan**. By doing so, **you will be saving the most valuable school experience** that many of our community's children will ever have.

It is one thing if a building is not being used and is rented out by the city to a private company. It is completely different and, in my opinion, **UNETHICAL to eliminate quality affordable preschool programs already established in order for the city government to PROFIT OFF OF OUR YOUNG CHILDREN.** This is especially unethical if basic alternatives to eliminating the programs, such as increasing tuition and advertising, have not been utilized for years, as is the case in Los Altos for these preschools.

It seems, as parents have feared, the tuition will drastically increase- **from $4K per year to at least $10-12K per year** from privatization of the preschool programs. With the city's proposed privatization plan, the city could make around $30,000 per year minus the San Antonio club repairs, according to the city council agenda's report. The Children's Corner, the private preschool chosen by the city to take over, might benefit from having a lower rent than with other locations. This will benefit some parties -i.e. the city budget and the Children's Corner.

This modest benefit to the city's budget would occur AT THE STRONG DETRIMENT to the community's young children and families.

At a prohibitively high cost for families, privatizing the current programs leads to programs of inferior quality replacing the amazing teachers we have, who have worked as a team and carefully developed their programs over many years. <u>**One cannot replace our teachers with entirely new staff teams starting from scratch AND expect them to be of comparable quality.**</u>

I advocate strongly against this proposal. I advocate for reasonable alternatives to eliminating our quality established city-run preschool. The main reasonable alternative is increasing tuition of the current programs. **Even if increasing tuition by 150 percent, to ~$7K, this is still an affordable option.** I have heard that tuition increases haven't taken place in ~10 years, in spite of losses occurring some years. **I contest that <u>the city could mostly cover the costs of running these programs</u>** <u>by:</u>
<u>1) Moderately increasing tuition, i.e. by ~150%</u>
<u>2) Low-cost advertising for adequate enrollment and recruiting of part-time staff</u>
<u>3) Returning Tiny Tots back to 4-5 days per week</u>
<u>4) Collaborating with teachers for additional strategies and needs</u>

<u>**The report's arguments are faulty that TK (Transitional Kindergarten) expansion in public schools will eliminate the demand for Tiny Tots and Kinder prep**</u>. This is because:
1) In spite of Los Altos already having a public TK offering, **our Kinder prep, in this same age range, is enrolled to full capacity**.

2) **Free public school offerings still miss the needs** of a large part of the community who can and will engage in offerings of quality over quantity. The needs that the public schools will often not meet for this same age range include, but are not limited to a) **Smaller class sizes** -16 student cap at Kinder prep versus ~24 students in public school classes and b) **Partial day** length of Kinder prep rather than full day length of local public schools.
2) **Tiny Tots allows children too young for public school TK's.** Tiny Tots starts as young as 2.8 years old, but TK's start at the youngest 4 years old.

If the city feels compelled to take other measures other than moderately increasing tuition to mitigate costs, **WITHOUT eliminating the current excellent city-run preschools,** please consider the following strategies, with "*" indicating the most important considerations.

*1) **Increase the Tiny Tots program back to a 4-5 day per week**, similar to Kinder-Prep (which is half-day Mon-Thurs). Reasons for this include:
a) Tiny Tots was usually a 5 day program (with the option for a 3 vs 5 days per week for participants). **When the change to 3 days per week happened in Fall 2023, I have heard that there was an >40% reduction in income,** an important factor not included in the agenda reports.
b) The reason for the change of Tiny Tots from 5 days to 3 days per week is not known by the teachers, and the **teachers were not consulted** about this decision.

*2) **Advertise the program** with low cost advertising strategies to maximize enrollment and staff recruiting.
Reasons for this:
a) When flyers were passed out at Farmer's Markets and other community events and locations for 2 months by teachers during COVID, **enrollment issues were resolved** during that time. However, the teachers were subsequently discouraged from advertising further.
b) Volunteer parents such as myself could do this advertising **at no cost to the city.**

*3) **Involve the current teachers in additional planning and decision making** which could have fiscal implications. Reasons for this:
a) When teachers have been involved in advertising and running the programs, things went well. For example, **in COVID, these teachers advertised with flyers at community events and community locations due to enrollment concerns. THIS WAS EFFECTIVE.** When a decision was made without their input, such as decreasing Tiny Tots to 3 days per week, this went poorly from a financial perspective. The teachers will know best what would maximize enrollment with their knowledge of the students' families' needs.
b) **These teachers can best discern what are "needs" versus "wants" for programs to still run well, such as with supplies, staffing, hours offered, extra activities, etc.** The teachers themselves would know best where can be trimmed budget-wise with the least risk to the main preschool needs. For example, **they have already noted a surplus of supplies which could be used to save supply costs for the following year.**
c) With challenges of recruiting and hiring part-time staff, collaborating with current teachers and parents to strategically advertise would likely be effective, which does not seem to have yet been done.

4) **Rent out the community center to a private preschool**, but **keep San Antonio club for Tiny Tots and Kinderprep**. Kinderprep could take place in the mornings, and Tiny Tots in the afternoons in the same building. San Antonio Club has housed both of the two programs before, (while the Los Altos Community Center was being built), so it is feasible. Rationale:
a) **The city would still profit** from renting out some of their space.
b) **The city wouldn't have to make the alterations to the San Antonio club** mentioned, mitigating this unknown additional financial cost.
c) **Outrage of community members would be prevented**. The community will be affected by the **symbolism of a private company using and eliminating city resources** if the San Antonio Club was altered and the private preschool was to take over a 50+ year old quality city program.

5) **Reduce Lunch and Play to 1-2 days per week and/or charge more per hour,** or eliminate the Lunch and Play program if that will make the difference to keep the main preschool programs running.
Reasons:
a) **Reduces effort to staff** with less days of the program per week
b) **Reduces potential financial losses** of having too few kids per staff.

As a physician, and in particular, a child and adolescent psychiatrist, I can attest to the excellent quality of the Tiny Tots preschool, which my daughter is attending in her 2nd year. This is in contrast with many other preschools, whose financial pressures as businesses promote quantity over quality, to the detriment of the child's critical early development.

I thank you for your support of the Tiny Tots and Kinder Prep preschools over the years, for which my daughter and our family are incredibly grateful. I urge you to save these valuable preschools from being sacrificed for a prohibitively expensive private alternative by voting against this detrimental proposal to the children of our community.

Sincerely,
Marina Post

April 7, 2024

Re: April 9, 2024, Meeting, Agenda Item #2 (Comprehensive ADU Update)

Dear Mayor Weinberg and Members of the City Council:

The League of Women Voters (LWV) supports policies that encourage the development of housing, particularly affordable housing. We encourage the building of Accessory Dwelling Units (ADUs) as they are typically more affordable by design.

The programs proposed regarding ADUs were included in the Housing Element Update (HEU) and should encourage development that will allow Los Altos to meet its Regional Housing Needs Assessment (RHNA) goals. We commend the City for its aggressive implementation of the HEU.The City will be ahead of the schedule it promised in the HEU in several respects if it implements the proposed ordinance now. The LWV applauds Los Altos for being a leader in providing permit-ready ADU plans, making it easier for homeowners to build this housing.

Please send any questions about this email to Sue Russell, Co-Chair of the Housing Committee, at housing@lwvlamv.org.

Sincerely,

Katie Zoglin, President
Los Altos-Mountain View Area LWV

C: Gabe Engeland, City Manager
Melissa Thurman, City Clerk
Nick Zornes, Development Services Director
Jon Maginot, Assistant City Manager
PublicComment@losaltosca.gov

April 8, 2024

Dear Honorable Council Members,

As you are aware, at close of business on April 4, the city published a recommendation to close Playschool and continue KinderPrep for one additional year before making a decision about its future. The statements revealed in this recommendation show that the financials for the program significantly worsened between 2023 and 2024 due to a number of changes. Chief amongst them was reducing the Playschool program from 5 days a week to 3 days a week, which reduced revenue by 44%. Also included were accounting changes such as allocating unfunded pension liabilities to the program, which while a reasonable decision, should not be considered in a break-even analysis when deciding whether to continue running the program as these costs cannot be avoided by closing the program. While the city now offers a full day TK, KinderPrep continues to be highly enrolled as many families opt for a half day program.

It must be understood that closing Playschool would be a death knell for the KinderPrep program. It would allocate all overhead costs to a single program. It would also harm the enrollment pipeline - KinderPrep is always fully enrolled at the beginning of the year because students continue on from Playschool. And it would reduce the desirability of the program as it's hard for families to switch schools every year both because children and parents like to continue on with those they already have relationships with and also because searching for a school program is a time consuming and stressful process parents do not wish to repeat on an annual basis.

While offering a transitional KinderPrep year without continuing the Playschool program would allow families in Playschool to finish their time in the program, many in the community would feel insulted by such a course of action. There's a widespread feeling that everything one would do to kill a program has been done to Tiny Tots including zero marketing, moving to 3 days/week, and no tuition raises in over a decade. By pursuing a course of action that almost certainly results in the closure of KinderPrep a year from now, it's yet one more cut in a slow death of a thousand cuts. Instead, we ask that you give the program and community a real chance to address any concerns.

We would ask that you consider an alternate solution composed of the following elements:

- Restore the Playschool program to 5 days per week
- Address losses from the Lunch and Play (LAP) program
- Exclude costs from the analysis that the city will retain if program is canceled
- Increase tuition for the first time in over a decade

Restore the Playschool program to 5 days per week

Revenue was reduced by 44% or **$65,900** between 2023 and projected 2024 year-end. The explanation from staff is that the reduction in revenue was caused by decreased enrollment due to a reduction in hours of the Playschool program.

The city's programs can run no more than 12 hours per week due to licensing restrictions. The Playschool program previously ran as two offerings on M/W/F or T/Th, so that no offering exceeded 12 hours per week. Additionally, KinderPrep runs as two offerings on M/T/W/Th or F, so that no offering exceeds 12 hours per week. Running the Playschool on one of these two schedules or a similar schedule would allow the program to adhere to licensing requirements.

The other consideration is staffing. The teachers at Playschool are all returning teachers and taught when the program was offered 5 days/week, and the head teachers for KinderPrep and Playschool have said that they would prefer these programs be offered 5 days/week, thus staffing should not be an issue.

Our understanding is that the city canceled the T/Th offering because it wanted to offer a Mommy & Me class, which was not ultimately approved and did not end up running. Parents and teachers both prefer the 5 day/week option as demonstrated by the loss in revenue from eliminating it. We request that this change be reversed.

Address losses from the Lunch and Play (LAP) program
This program should either be changed to run in a more sustainable fashion or eliminated.

The Lunch and Play program is offered on a punch-card basis. These punch cards can be acquired in different sizes for as low as $11.60/hr, which is much cheaper than a babysitter, and does not cover the cost of running the program. The punch card method of offering the program, while convenient for parents, also makes attendance unpredictable and results in additional administrative burden. Further, the program is difficult to staff as it runs for two hours each day and that's difficult to hire for. While all teachers from KinderPrep and Playschool are returning teachers, the city has had to go through the hiring process multiple times this year for Lunch and Play, which has entirely new staff. While the Tiny Tots financials have never been broken down between the three programs, we conservatively estimate that roughly **$50,000** in direct losses are caused by running this program.

If council decides to pursue changes, those changes could include:

- Advertise the program as a service for all residents who have ad hoc child care needs. So many parents would find it incredibly helpful to have somewhere to drop kids off to be able to go to a doctor's appointment, go to the gym, or run other errands.
- Increase the hourly rates. The current $11.60/hr is far cheaper than any babysitter
- Create punch cards for 50 or 100 visits reducing the administration of repeated 20 card purchases
- Offer an annual option to reduce administration compared to the daily drop-in
- Eliminate the option to utilize the program for only 1 hour

Exclude costs from the analysis that the city will retain if program is canceled
While cost savings is a large driver for canceling the program, we must also recognize that not all costs can be avoided by canceling the program. Some expenses such as unfunded pension liability must continue to be paid regardless of whether the program is continued. Additionally,

some expenses are incurred on a city-wide basis and allocated to each program on a proportional basis. While understandable, we should also recognize that canceling the program will not eliminate these expenses and will just cause them to be allocated to other programs. Finally, the RFP states that the city may continue to pay for expenses such as maintenance, janitorial, and utilities. It is unclear whether Children's Corner proposed to pay for such expenses. The council should ascertain whether these costs will continue. Our estimate is that **$86,929** in expenses are unavoidable.

Increase tuition for the first time in over a decade

After factoring in the changes above, tuition would need to be raised by roughly $3,500 to a total of around $7,500/yr. Had tuition been raised each year over the past decade, this would be equivalent to a 6.5% annual rise in tuition. Childcare costs have risen at nearly twice the rate of overall inflation making this a reasonable catch up for price rises that should have been occurring over the past decade. Assuming an enrollment of 24 students, this would bring in an additional **$84,000**. This would be only half the cost of the roughly $15,000/yr charged by Children's Corner.

While this number is a lower number than the one shared by staff, it considers a different set of options. The lower number was arrived at by making the above changes of restoring a 5 day program, filtering out unavoidable costs, and eliminating losses from Lunch and Play. If the council or staff disagree with some of the analysis above, tuition may need to be further increased, but in any case would be a far more affordable option for parents than Children's Corner tuition is.This is also a breakeven analysis assuming that the city spends $0 on the program. While every member of the community and council may have a different opinion as to what the correct amount of spending on this program is, it would be entirely reasonable for the city to spend funds on this program which promotes early childhood education and affordability for residents including the city's own employees.

While the city may wonder whether enrollment can be sustained with higher tuition rates, it must be noted that Children's Corner is able to fill their program while charging far higher rates. Further, demand for preschools has recently exploded with the closure of Google's daycare centers leading to long waitlists at area schools and adding confidence that the city will be able to enroll its program. The parents and community at the school are willing to put in the work to get the word out including running advertisements for the program, putting up flyers and signage, and manning events like the upcoming Los Altos Family Fun Day this Saturday.

We have attached a petition signed by roughly 150 members of the community urging you to give the program a chance. The Tiny Tots program is a storied cornerstone of the Los Altos community in existence for well over fifty years. The staff have nearly 50 years of combined experience working for the city and the Children's Corner licensing requirements mean that they would be losing their jobs and the community would be losing teachers that we all love so much. We would request that the city first attempt working with the parents and community to continue the long successful legacy of the Tiny Tots programs before opting for a sudden closure.

Sincerely,
Stephanie Lin
On behalf of Save Tiny Tots
https://losaltos.school

PETITION TO THE CITY COUNCIL OF LOS ALTOS

WE, the undersigned, were surprised to learn that the City of Los Altos is planning to end its preschool program and open up an RFP for private entities to bid on using the preschool facilities. It is alarming that the city is planning to eliminate this long-standing program without providing parents or the community notice, transparency into the decision making process, and a chance to address any concerns.

THAT, the Tiny Tots preschool program has been in existence for 50+ years, many former students are now sending their own children to participate. The program sets children up to become engaged citizens through the unique opportunities they have to interact with other community organizations through regular field trips and activities. A quality preschool program with a low student to teacher ratio and an affordable price has countless benefits for not only students, but the community as a whole. High quality early education programs attract residents and prepare students for success in Los Altos schools.

THAT, the program consists of experienced teachers with a passion for early childhood development, the school provides an environment which allows the children to learn and thrive. The staff has gone above and beyond to provide a quality experience, even through the trying times of the COVID pandemic. It is disturbing that the city is contemplating laying off highly qualified teachers during a nationwide teacher shortage. The proposed implementation timeline means there is a high risk that the program cannot be successfully offered next year as it will be challenging to contract with a private entity, hire new teachers, and enroll students in time for next school year when enrollment began months ago at other local area schools.

THAT, outsourcing to a private entity will result in a decrease in program quality, an increase in tuition, and the loss of highly experienced and dedicated teachers. The city can alter the economics of the program without introducing a middleman that will extract funds for its own benefit. The addition of such a middleman will only serve to worsen the experience for students, parents, and teachers at the school.

OUR REQUEST is that the city delay their decision and first attempt working with the parents and community to continue the long successful legacy of the Tiny Tots and Kinder Prep programs. A collaborative solutioning process should be fully attempted before a decision is made to shutter and privatize our local school without consultation of parents, students, teachers, residents, and advisory commissions.

Sincerely Yours,
Ashley Hawrylyshyn, Current parent
Ryan Nolan, Current parent
Jenny Lin
Erika Tang, Prospective parent and Los Altos resident
Jena Wise, Past parent, Los Altos resident
Rachel Massaro, Silicon Valley Community Health Researcher

Marina Post, Current Parent
Gina Kim, Los Altos Resident
Casey Davis, Prospective parent
Elizabeth Stewart, current Tiny Tots parent
Stephanie Lin, current Tiny Tots parent
Citlali Tolia, Past parent/ Los Altos resident
Tiffany Martin, Past Parent
Ashley Lu, Prospective parent
Jennifer Keller, Past Parent, Los Altos Resident
Eduard Keller, Los Altos Resident, Past Parent
Tony Lu, Los Altos Resident
Feng Fang, Prospective Parent
Kjell and Helene Karlsson, Past parent of a Tiny Tots and Kinder-Prep student
Susanne Wisén, Past parent
Marie Rosland, retired teacher
Barbara Loebner, Los Altos resident
Thea and Steve Merrill, Long-time Los Altos residents, had two children in the MVLA system
Maggie Kwan, Prospective parent, Los Altos resident
Jane Holt, los altos resident
Erin Tressler, Past parent (2 kids)
Jane Vaden, Incorporated Los Altos resident
Jessica Behrmann, Current parent and past parent
Patty Hurley, 37 year resident and past Tiny Tots parent
Jayanti sharma, Current parent
Ted Wertheimer, Los Altos Resident
Danika Dellor, Past parent
Chandani Tamang, Prospective parents
Albina, Prospective parent
Jeannette Ring, Past parent and lover of all things Tiny Tots related!
Sarah Calleija, Past and prospective parent
Patrick Ring, Big brother to sister who attended
Alice Ring, Former Tiny Tot, current 7th grader at Blach
Leigh Burns Quan, Former teacher and parent of a tiny tot graduate
Leea Guy, Recreation coordinator who over saw tiny toys
Sara Brannin-Mooser, Past preschool parent in Los Altos
Claudia Meyer, Former Teacher & Director at Tiny Tots. Los Altos Resident
Catherine Dellor , Past parent/Los Altos resident
Christine Larsen, Former Los Altos resident and supportive friend of current students
Jake Humble, Resident
Marina Eisenbud, Mountain View resident and parent
Lanjun Wang
Andrea Carella, Los Altos resident
Linnea Sloan, Los Altos resident
Katherine Carpenter, Los Altos resident, parent of schoolage kids

Muhammad Wang, Prospective Parent
Linda Roy, Los Altos resident
TJ, Parent
Linnsey Nil
Paul Carella, Los Altos resident
Victoria Hambly, Past
GayLynn Ribeira, Past parent
Jacy Tse, Current parent, Los Altos Hills resident
Hollie Halpin, Past parent
Heather Katta, Past parent and current Los Altos resident
James Ring, Parent of former tiny tot, Mountain View resident
Chrishnika Paul, Past parent and Los Altos resident
Lisa Martins Skaggs, Los Altos Resident
Melanie Hinse, Past Tiny Tots parent
Meeta Nashru , Parent los altos
Shannon Campos, parent of LAHS students (past and present)
Anusha Natarajan, Los Altos resident
Sarah Wu, Past parent
Andrea Barnett, Los Altos resident
Jonathan Wu, Past Parent
Jeff Chung, Current parent 2 LAHS students
Sonia Soo, Current Los Altos resident and parents to LASD schools and LAHS
Ali, Paraeducator/family member of Los Altos Resident
Kay Chin, current & past parent
Yvonne Hildebrand, current Los Altos resident
Ben & Jessica Mullen, Past student and Los Altos Residents
William Hsu, Grandfather
Joann Barboudesplaces, Los Altos resident
Jeanine Valadez, Los Altos resident and member of the public
Anne Schmidt, past parent and Los Altos resident
Ray Abrishami, Past
Beth Kelly, Past Parent
Leeanne Kromer, Past teacher at Tiny Tots 1985-1996
Andrei Selikhanovich, Past parent (3 kids graduated from Tiny Tots), Los Altos resident
Jeff, Los Altos resident
Benjamin McCann, current parent
Nancy Tucker, Over 40 year resident of Los Altos
Mary Chin
Marjan Yahya, Current parent and resident
Kevin Lu, Prospective parent
Jessica Thomander , Current
Jane Holt, current and long term Los Altos resident
Sara Kiani , Los Altos North resident and parent to young kids
Meredith Purser , Current Tiny Tots parent

Dorothy Hsu, Grandmother
Eileen Fairley, Prospective parent, Los Altos resident
Lu Wang, Los Altos resident
Jenna Arruda, Los Altos resident, Previous Tiny Tots parent, community pediatrician
Linda Palmor, Current resident
Ginny Leung, current parent, Los Altos resident
Meri-Beth Bird, Past parent or 2 children that attended Tiny Tots
Sunny Early, Parent
John C Lukrich, Parent / Los Altos resident
Chris Roat, Los Altos resident
Malcolm Early, parent
Lacey, prospective parent
Jennifer Walker, Los Altos resident
Beth Markus Lukrich, Los Altos resident
Valerie Klazura, parent of TT Alums and Los Altos resident
Mary Gallivan, Past parent
Riley Gallivan, former Tiny Tots student
Conor Gallivan, Past tot!
Annie Gallivan, Alumni
Jack Deely
Courtney Quinlan, Former Los Altos resident
Skylar Scull, Los Altos resident
Rich Gallivan, past parent, Los Altos resident
Elizabeth, Tiny Tots Parent
Scott Snedden, Past parent of two Tiny Tots alumni
Seamus Gallivan, Alumni of Tiny Tots
Dana Kawaguchi, Past Tiny Tot parent
Lily Chin, Tiny Tots Alumni
Kirby Hansen, current Los Altos resident
Myla Santos, Previous Tiny Tots Preschool Teacher
Karen Hansen
Hayden Brown, Current Los Altos resident and parent of young kids
Ryan Brown, Los Altos resident
Blaine Dzwonczyk, Tiny Tots Graduate Class of 2000, current high school teacher
Ye Dong, prospective parent
Lu Wang, Los Altos residents and prospective parents
Rajiv Shah, Resident
Gaurav Mehta, Prospective parent and Los Altos Resident
Jianing Yan
Chuanjun Shan
Luke Dzwonczyk, alumnus
Cui Lin, Prospective parent
Hong Wu, Los Altos resident
Meredith Purser, Current Kinder Prep parent

Melissa Thurman

From: Mar P <psychiatrymp@gmail.com>
Sent: Tuesday, April 9, 2024 1:04 AM
To: Public Comment
Subject: Public written comment for 4/9/24 Agenda item #7: Tiny Tots/Kinder Prep Preschool (additional comment)

Dear Honorable Council Members,
In addition to my previous comments submitted for the Los Altos City Council Meeting 4/9/24, I wanted to make an additional submission with a correction to my previous submission and additional comments:

1) Correction: I had noted the revenue reduction was ~$80,000 in my public comments for 4/9/24. This number should be $65,900 instead. For a thorough and knowledgeable analysis of important considerations of Tiny Tots and Kinder Prep's financials and logistics, in addition to the city's report, please see Stephanie Lin's public written comments on behalf of Save Tiny Tots.
2) Thank you for your attention to **Stephanie Lin's public written comments** on behalf of Save Tiny Tots https://losaltos.school.
3) Also, thank you for your attention to the **Petition submitted by Save Tiny Tots** https://losaltos.school. This important petition, with ~ 150 signatures, calls for giving the Los Altos Kinder Prep and Tiny Tots preschools a **fair chance** to remain city-run by involving parents, students, teachers, residents, and advisory commissions in a full and collaborative solutioning process.

Sincerely,
Marina Post

Melissa Thurman

From:	Debra strichartz <dstrichartz@gmail.com>
Sent:	Tuesday, April 9, 2024 10:08 AM
To:	Public Comment
Subject:	Support for Resolutions

- I would like to add my support for adopting a Resolution approving the raising of the Progress Pride flag in June 20.
- I would like to add my support for adopting a Resolution approving the raising of the Juneteenth flag in June 2024.
- Thank you.

Debra Strichartz
650-224-9490

Melissa Thurman

From: Los Altos Affordable Housing Alliance <losaltosaffordable@gmail.com>
Sent: Tuesday, April 9, 2024 11:00 AM
To: Public Comment
Subject: Public Comment Agenda Item #6 ADU Ordinance - 4/9/24
Attachments: LAAHA Letter to CC 4.9.24.pdf

Hello Councilmembers,
Please see the attached letter from the Affordable Housing Alliance.

Thank you,
Daphne

--
Los Altos Affordable Housing Alliance
To educate and inspire the Los Altos community to build housing that is affordable for our workforce.

April 9, 2024

Dear Mayor Weinberg and Councilmembers,

Thank you for reviewing and bringing into state compliance the city's ADU ordinance. We support the elimination of the daylight plane, the elimination of the fees for ADU permits, and having pre-approved ADU plans available, since we support the encouragement of ADU development as essential to increasing our city's housing stock.

We would like to commend the city staff, particularly Nick Zornes and the Development Services team for prioritizing and working diligently on implementing the programs and commitments from our Housing Element Update. It has taken steady dedication and a lot of hard work to keep moving forward, and we appreciate that our city is taking its commitments seriously. Creating pathways to more housing - whether that is streamlining processes for developers, re-evaluating parking requirements, or encouraging ADU development - strengthens our community for the future.

With appreciation,
LAAHA Steering Committee

Melissa Thurman

From: Meri-Beth Bird <meribethbird@gmail.com>
Sent: Tuesday, April 9, 2024 11:25 AM
To: Public Comment
Subject: PUBLIC COMMENT - AGENDA ITEM 7 - April 9, 2024

Dear City Council:

I think it's important to keep a public preschool option open to Los Altos residents and families in neighboring communities. To me, closing Tiny Tots preschool and the other 2 programs seems very sudden with very little time for community input. I think current parents (including Ben McCann - the excellent organizer) and the idea of let's try some fundraising and ways to contribute and help the city to keep Tiny Tots is a great part of the solution.

For young families, I think it's important to have an affordable preschool option as well.

A bit of history: My husband - Mark Dzwonczyk and I moved to Los Altos in 1994. Both of our kids went to Tiny Tots from 1998 until 2004 to both the 3's and 4's. They are now 28 and 26 years old. My daughter came to the last City Council meeting and we both spoke in support.

From my experience: the teachers and the program. - amazing. Our kids went through the public schools Springer then to Covington when that first opened then Egan and Los Altos high school - again amazing schools and experience.

Recently, being involved in "saving Tiny Tots", I have had interactions with the current teachers who ALSO seem amazing and love their work.

Thank you,
Meri-Beth Bird

--
Meri-Beth Bird
meribethbird@gmail.com
650-722-3192

CITY OF LOS ALTOS
CITY COUNCIL MEETING MINUTES
TUESDAY, MARCH 26, 2024
7:00 p.m.
1 N. San Antonio Rd. ~ Los Altos, CA

Jonathan D. Weinberg, Mayor
Pete Dailey, Vice Mayor
Neysa Fligor, Councilmember
Lynette Lee Eng, Councilmember
Sally Meadows, Councilmember

CALL MEETING TO ORDER – Jonathan D. Weinberg, Mayor, called the meeting to order at 7:00 p.m.

ESTABLISH QUORUM – All Councilmembers were present.

PLEDGE ALLEGIANCE TO THE FLAG – Neysa Fligor, Councilmember, led the Pledge of Allegiance.

REPORT ON CLOSED SESSION

There was no recent Closed Session meeting.

CHANGES TO THE ORDER OF THE AGENDA

There were no changes to the order of the agenda.

SPECIAL ITEM

Recognize the Los Altan of the Year

Jonathan D. Weinberg, Mayor, presented a Proclamation to the Los Altan of the Year, Vicki Reeder.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

The following members of the public spoke during Public Comment:

- Meri-Beth Bird
- Blaine Dewonczyk
- Ben McCann
- Mary Post
- Marina

CONSENT CALENDAR

Lynette Lee Eng, Councilmember, asked to pull Item 3 of the Consent Calendar. **Jonathan D. Weinberg, Mayor,** moved Item 3 of the Consent Calendar to after Item 10 on the agenda.

Motion by Fligor and Seconded by Meadows to approve Items 1, 2, 4, 5, 6 and 7 of the Consent Calendar. **Motion carried unanimously by roll call vote.**

1. Approve draft meeting minutes for the Special and Regular meetings of March 12, 2024

2. Receive and Accept the Treasurer's Report through February 29, 2024

4. Adopt a Resolution authorizing the City Manager to accept the grant funding from the State of California in the amount of up to $88,425 to be used for SB 1383 program implementation through fiscal year 2025/26

5. Waive Second Reading and Adopt an Ordinance of the City Council of the City of Los Altos Adding Chapter 2.30 Electronic Signatures to Title 2 Administration and Personnel of the Los Altos Municipal Code and find that this action is Exempt from Environmental Review Pursuant to Section 15061(b)(3) of the State Guidelines Implementing the California Environmental Quality Act of 1970

6. Adopt a Resolution awarding the construction contract for the Los Altos Community Center Emergency Operations Center Project CF-01021 to Argo Construction, Inc. of Pacifica, California as the lowest responsible bidder submitting a responsive bid with a Base Bid amount not-to-exceed $2,700,000, and up to 15% contingency, if needed, in the amount not-to-exceed $405,000, for a total construction amount not-to-exceed $3,105,000

7. Accept the Comprehensive Annual Financial Report and compliance reports for the fiscal year ended June 30, 2023

PUBLIC HEARINGS

8. Adopt a Resolution of the City Council of the City of Los Altos setting Certain Fees and Charges to be collected in FY2024/25 and find that this action is statutorily exempt from CEQA under CEQA Guidelines Sections 15273(a)(1) and (a)(2); and direct staff to amend the City's Finance Policy to include a provision for annual adjustments to the Master Fee Schedule based upon CPI

Nick Zornes, Development Services Director, presented the report.

Jonathan D. Weinberg, Mayor, opened the Public Hearing.

The following members of the public spoke during the Public Hearing:

- Jon Baer

Jonathan D. Weinberg, Mayor, closed the Public Hearing.

Motion by Meadows and Seconded by Fligor to adopt a resolution, including the fee schedule attached as an exhibit to the resolution, setting certain fees and charges to be collected in FY2024/25 and find that this action is statutorily exempt from CEQA under CEQA Guidelines Sections 15273(a)(1) and (a)(2); and direct staff to amend the City's Finance Policy to include a provision for annual adjustments to the Master Fee Schedule based upon CPI. **Motion carried unanimously by roll call vote.**

DISCUSSION ITEMS

9. Housing Element Annual Progress Report for Calendar Year 2023, and Housing Element Implementation Status

Nick Zornes, Development Services Director, presented the report.

There were no speakers regarding the item.

Motion by Fligor and Seconded by Lee Eng to adopt a Resolution of the City Council of the City of Los Altos Accepting the Housing Element Annual Progress Report for Calendar Year 2023 and Authorizing Staff to Submit the Report to the California Department of Housing and Community Development and find that this action is exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15378(b)(5). **Motion carried unanimously by roll call vote.**

The City Council took a recess at 8:57 p.m.

The City Council reconvened at 9:05 p.m.

10. Discuss how Commissions conduct outreach

Pete Dailey, Vice Mayor, opened the item for discussion.

There were no speakers regarding the item.

The City Council provided direction to staff regarding future public outreach by city commissions.

3. Adopt a resolution adopting the City's Mission Statement

Lynette Lee Eng, Councilmember, explained why she requested to pull the item from the Consent Calendar.

Motion by Dailey and Seconded by Lee Eng to table the item.

Jonathan D. Weinberg, Mayor, made a substitute motion:

Motion by Weinberg and Seconded by Meadows to adopt a resolution adopting the City's Mission Statement. **Motion carried 4-1 by roll call vote with Councilmember Lee Eng opposed.**

INFORMATIONAL ITEMS ONLY

12. Tentative Council Calendar and Housing Element Update Implementation Calendar

COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS

- **Jonathan D. Weinberg, Mayor –** Requested future agenda items:
  - Raising of the Progress Pride flag in June. *(Unanimous support)*
  - Raising of the Juneteenth flag in June. *(Unanimous support)*

- **Pete Dailey, Vice Mayor –** Requested a future agenda item:
  - Letter of support for various law enforcement bills *(Supported by Fligor and Lee Eng)*

- **Neysa Fligor, Councilmember –** Requested future agenda items:
  - Review criteria for how the 1% for public art fees was established and consider redirecting how the fee is allocated *(Supported by Dailey and Lee Eng)*
  - Discuss a possible community-member appointment to a Santa Clara County board, Sourcewise, which offers support for seniors *(Supported by Meadows and Lee Eng)*

- **Lynette Lee Eng, Councilmember –** Requested future agenda items:
  - Discussion on revising the travel policy *(No support)*

ADJOURNMENT – The regular meeting adjourned at 10:08 p.m.

The meeting minutes were prepared by Melissa Thurman, City Clerk, for approval at the regular meeting of April 9, 2024.

______________________________	______________________________
Jonathan D. Weinberg Mayor	Melissa Thurman, MMC City Clerk

The March 26, 2024 City Council meeting recording may be viewed via the following external website: https://www.youtube.com/@CityofLosAltosCA

The City of Los Altos does not own or operate YouTube. The video referenced on these minutes were live at the time the minutes were published.

City Council Agenda Report

Meeting Date: April 9, 2024
Prepared by: Victoria Lee
Reviewed By: Nick Zornes
Approved By: Gabriel Engeland

Subject:
Authorize the City Manager to execute the Subdivision Improvement Agreement and approve Final Parcel Map for 14 Fourth Street

COUNCIL PRIORITY AREA

☐Business Communities
☐Circulation Safety and Efficiency
☐Environmental Sustainability
☒Housing
☐Neighborhood Safety Infrastructure
☐General Government

RECOMMENDATION

Authorize the City Manager to execute the Subdivision Improvement Agreement and approve the Parcel Map of 14 Fourth Street.

INITIATED BY:

14th Fourth Street, LLC

FISCAL IMPACT

None

ENVIRONMENTAL REVIEW

The approval of a final map is exempt from review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA guidelines section 15268(b)(3).

SUMMARY

- Tentative map was approved on May 18, 2023
- Council to approve Parcel Map

BACKGROUND

On May 18, 2023, Council approved the multi-family design review application and the associated Tentative Map for the new development at 14 Fourth Street. The recommended action will finalize the parcel map for the project.

A Tentative Map (AKA, Tentative Parcel Map or Tentative Tract Map) is a map showing the layout of a proposed Subdivision, including the general description of the associated infrastructure. The approved Tentative Map also sets conditions such as access, frontage, grading improvements, stormwater protection, and so forth which must be met before the final Parcel Map or Tract Map can be filed. An approved Tentative Map does not divide the property, rather it sets the conditions under which the division can occur. To divide the property, one must file a final Parcel Map or Tract Map (i.e., Final Map).

The attached Parcel Map is the instrument that divides the property. It must conform to and incorporate all the Tentative Map conditions and must also comply with the standards for Tract Maps or Parcel Maps as set forth in the State Subdivision Map Act. It must also include plans describing the various improvements to the project site and to all other affected properties, including public roadways and public and private utilities.

DISCUSSION/ANALYSIS

Parcel Map for the development at 14 Fourth Street conforms to the Tentative Map approved on May 18, 2023. The map and survey have been checked and found satisfactory. All conditions of approval have been complied with and appropriate controls to ensure compliance have been established. All required fees and deposits have been received. The Parcel Map is available in the Engineering Services Department office for inspection.

ATTACHMENTS

1. Parcel Map
2. Subdivision Agreement

PARCEL MAP

FOR CONDOMINIUM PURPOSES

CONSISTING OF TWO (2) SHEETS

A ONE LOT SUBDIVISION FOR FOUR CONDOMINIUM UNITS, BEING ALL OF THE LANDS DESCRIBED IN THAT CERTAIN DEED RECORDED NOVEMBER 18, 2021 AS DOCUMENT 25172928 O.R. IN THE OFFICE OF THE SANTA CLARA COUNTY RECORDER.

AND LYING ENTIRELY WITHIN THE

CITY OF LOS ALTOS SANTA CLARA COUNTY STATE OF CALIFORNIA

MARCH, 2024

PREPARED BY:

1735 ENTERPRISE DR., STE. 109 PH (707) 425-6234
FAIRFIELD, CA 94533 FAX (707) 425-1969

OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF, OR HAVE SOME RIGHT, TITLE OR INTEREST IN OR TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN ON THIS MAP; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; AND THAT WE HEREBY CONSENT TO THE MAKING OF SAID MAP AND THE SUBDIVISION AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE.

WE ALSO HEREBY DEDICATE TO PUBLIC USE EASEMENTS FOR ANY AND ALL PUBLIC SERVICE FACILITIES INCLUDING POLES, WIRES, CONDUITS, GAS, WATER, HEAT MAINS AND ALL APPURTENANCES TO THE ABOVE, UNDER, UPON, OR OVER THOSE CERTAIN STRIPS OF LAND LYING BETWEEN THE FRONT AND/OR SIDE LINES OF LOTS AND THE DASHED LINES AND/OR THOSE CERTAIN AREAS LYING BETWEEN DASHED LINES EACH DESIGNATED AS "PSE" (PUBLIC SERVICE EASEMENT). THE ABOVE MENTIONED PUBLIC SERVICE EASEMENTS TO BE KEPT OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT PUBLIC SERVICE STRUCTURES, IRRIGATION SYSTEMS AND APPURTENANCES THERETO, LAWFUL FENCES AND ALL LAWFUL UNSUPPORTED ROOF OVERHANGS.

WE ALSO HEREBY DEDICATE TO PUBLIC USE EASEMENTS FOR PUBLIC ACCESS PURPOSES, INCLUDING BOTH PEDESTRIAN AND VEHICULAR ACCESS, OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AND DELINEATED AS "PAE" (PUBLIC ACCESS EASEMENT). THE ABOVE MENTIONED PUBLIC ACCESS EASEMENTS TO BE KEPT OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT PUBLIC SERVICE STRUCTURES, IRRIGATION SYSTEMS AND APPURTENANCES THERETO, LAWFUL FENCES AND ALL LAWFUL UNSUPPORTED ROOF OVERHANGS.

AS OWNER: 14 FOURTH STREET LLC, A CALIFORNIA LIMITED LIABILITY COMPANY.

BY: JOHN SUPPES REVOCABLE TRUST, AS ITS MANAGER

____

NAME: JOHN SUPPES, TRUSTEE

TITLE: MANAGER

OWNER'S ACKNOWLEDGMENT

A NOTARY PUBLIC OR OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

ON ____________________, 20____, BEFORE ME, ______________________, A NOTARY PUBLIC,

PERSONALLY APPEARED ______________________________, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

NOTARY'S SIGNATURE: ______________________________

NOTARY'S PRINTED NAME: ______________________________

NOTARY'S PRINCIPAL PLACE OF BUSINESS: ______________________________

NOTARY'S COMMISSION NUMBER: ______________________________

EXPIRATION OF NOTARY'S COMMISSION: ______________________________

TRUSTEE'S STATEMENT

THE UNDERSIGNED CORPORATION, AS TRUSTEE UNDER THE DEED OF TRUST RECORDED NOVEMBER 18, 2021, AS DOCUMENT 25172929 OF SANTA CLARA COUNTY OFFICIAL RECORDS DOES, ON BEHALF OF THE BENEFICIARY, HEREBY JOIN IN AND CONSENT TO THE FOREGOING OWNER'S STATEMENT AND ALL DEDICATIONS SHOWN HEREIN.

AS TRUSTEE: OLD REPUBLIC TITLE COMPANY

BY: ______________________________

NAME: ______________________________

TITLE: ______________________________

TRUSTEE'S ACKNOWLEDGMENT

A NOTARY PUBLIC OR OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

ON ____________________, 20____, BEFORE ME, ______________________, A NOTARY PUBLIC,

PERSONALLY APPEARED ______________________________, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

NOTARY'S SIGNATURE: ______________________________

NOTARY'S PRINTED NAME: ______________________________

NOTARY'S PRINCIPAL PLACE OF BUSINESS: ______________________________

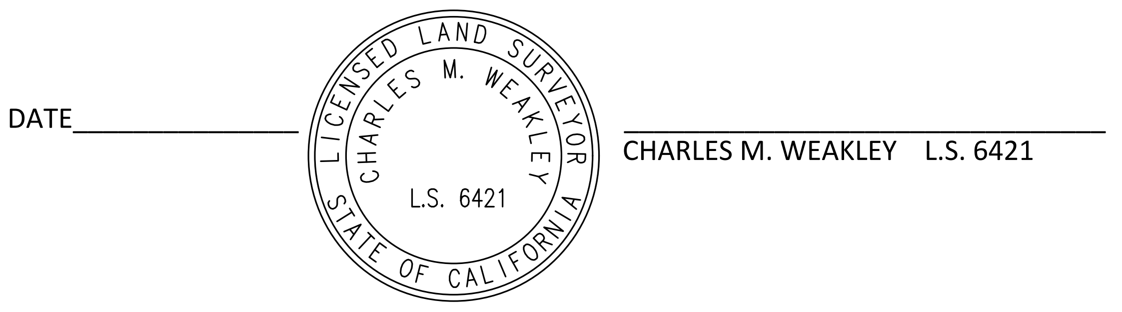
NOTARY'S COMMISSION NUMBER: ______________________________

EXPIRATION OF NOTARY'S COMMISSION: ______________________________

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF CLARUM COMMUNITIES IN SEPTEMBER, 2021. I HEREBY STATE THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THAT THEY WILL BE SET IN THOSE POSITIONS BEFORE NOVEMBER 1, 2024, AND THAT SAID MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP.

DATE ______________

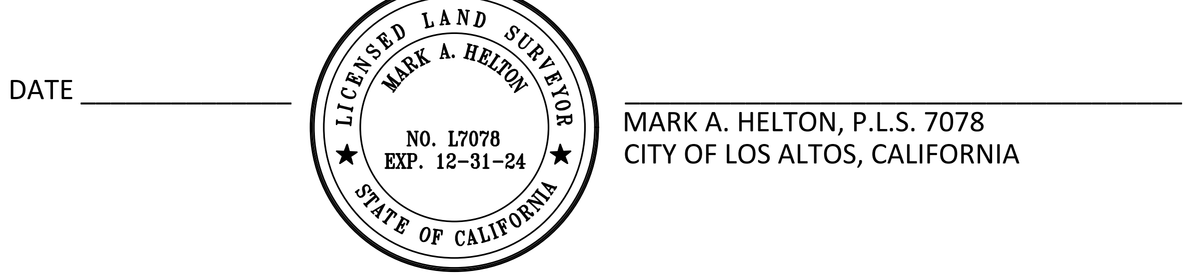


CHARLES M. WEAKLEY L.S. 6421

CITY SURVEYOR'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THE HEREON PARCEL MAP AND AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

DATE ______________



MARK A. HELTON, P.L.S. 7078
CITY OF LOS ALTOS, CALIFORNIA

CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THE HEREON PARCEL MAP; THAT THE SUBDIVISION AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, IF ANY, AND ANY APPROVED ALTERATIONS THEREOF; THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT, AS AMENDED, AND OF ANY LOCAL ORDINANCE APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP, IF REQUIRED, HAVE BEEN COMPLIED WITH.

DATE ______________

HSIAO-SHI CHEN, R.C.E. 70707
CITY OF LOS ALTOS, CALIFORNIA

SOILS REPORT NOTE

A SOILS REPORT HAS BEEN PREPARED BY EARTH SYSTEMS PACIFIC ENTITLED "PROPOSED 4TH STREET DEVELOPMENT" AS FILE NO. 306143-001, DATED JULY 5, 2023, A COPY OF WHICH HAS BEEN FILED WITH THE CITY OF LOS ALTOS.

CITY CLERK'S STATEMENT

I HEREBY STATE THAT THIS PARCEL MAP, CONSISTING OF TWO (2) SHEETS, WAS APPROVED BY THE CITY COUNCIL OF THE CITY LOS ALTOS, STATE OF CALIFORNIA, BY RESOLUTION NO______________ AT A DULY AUTHORIZED MEETING OF SAID COUNCIL HELD ON THE _____________ DAY OF ____________________, 202____, AND THAT BY SAID RESOLUTION ALL STREETS AND PORTIONS THEREOF, AND ALL EASEMENTS SHOWN ON SAID MAP AND OFFERED FOR DEDICATION, WERE REJECTED ON BEHALF OF THE PUBLIC, SAVE AND EXCEPT NONE, AND TO THE LIMITED EXTENT THAT ANY OFFERS FOR EASEMENTS FOR UTILITY PURPOSES ALONG OR BENEATH SAID STREET RIGHTS-OF-WAYS, THEN AS TO SUCH EXPRESS OR IMPLIED OFFERS OF EASEMENTS FOR PUBLIC PURPOSES, THE SAME ARE ACCEPTED.

______________________________ BY: ______________________________

MELISSA THURMAN, MMC DEPUTY
CITY CLERK
CITY OF LOS ALTOS, CALIFORNIA DATE: _____________

RECORDER'S STATEMENT

FILED THIS ______ DAY OF ______________, 2024, AT __________M. IN BOOK ________ OF MAPS AT PAGE(S) _____________, SANTA CLARA COUNTY RECORDS, AT THE REQUEST OF OLD REPUBLIC TITLE COMPANY.

FILE NO. _____________

FEE $ __________

REGINA ALCOMENDRAS, COUNTY RECORDER
SANTA CLARA COUNTY, CALIFORNIA

BY: ______________________________
DEPUTY

JOB NO. 521082

SHEET 1 OF 2

BASIS OF BEARINGS

BEARINGS SHOWN HEREON ARE BASED UPON THE MONUMENTED CENTERLINE OF WEST EDITH AVENUE AS SHOWN PER R-3; SAID BEARING TAKEN AS NORTH 89°45'00" EAST BETWEEN FOUND MOUNUMENTS LOCATED AT 3RD AND 4TH STREETS.

NOTES

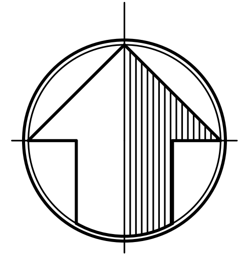
1. DISTANCES AND DIMENSIONS ARE SHOW IN IN FEET AND DECIMALS THEREOF.
2. THE DISTINCTIVE BORDER LINE DENOTES THE BOUNDARY OF THE SUBDIVISION.
3. THE AREA WITHIN THE DISTINCTIVE BORDER IS 7,042 SQ. FT., MORE OR LESS.
4. FOR PRIVATE EASEMENTS AFFECTING THIS SUBDIVISION, SEE THE OFFICIAL CONDOMINIUM PLAN AND CC&R'S FOR THIS DEVELOPMENT.

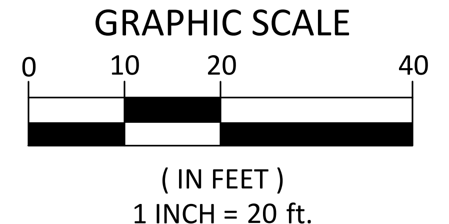
RECORD DATA REFERENCES

R-1	BOOK L OF MAPS, PAGE 99
R-2	BOOK 473 OF MAPS, PAGE 53
R-3	BOOK 888 OF MAPS, PAGE 37
R-4	BOOK 437 OF MAPS, PAGE 25
R-5	BOOK 368 OF MAPS, PAGE 11

LEGEND

Symbol	Meaning
	DISTINCTIVE BORDER LINE
	CENTERLINE
	EASEMENT LINE (UNLESS SHOWN/NOTED OTHERWISE)
●	FOUND MONUMENT AS NOTED
◉	FOUND STANDARD CITY MONUMENT AS NOTED
○	SET 3/4" IRON PIPE WITH CAP LS 6421
Meas.	MEASURED
(M-M)	MONUMENT TO MONUMENT
O.R.	OFFICIAL RECORDS
P.A.E.	PUBLIC ACCESS EASEMENT
P.S.E.	PUBLIC SERVICE EASEMENT
(R)	RADIAL BEARING
R-#	RECORD DATA - SEE REFERENCE TABLE
R/W	RIGHT OF WAY
S.F.N.F.	SEARCHED FOR, NOTHING FOUND
(T)	TOTAL





PARCEL MAP

FOR CONDOMINIUM PURPOSES

CONSISTING OF TWO (2) SHEETS

A ONE LOT SUBDIVISION FOR FOUR CONDOMINIUM UNITS, BEING ALL OF THE LANDS DESCRIBED IN THAT CERTAIN DEED RECORDED NOVEMBER 18, 2021 AS DOCUMENT 25172928 O.R. IN THE OFFICE OF THE SANTA CLARA COUNTY RECORDER.

AND LYING ENTIRELY WITHIN THE

CITY OF LOS ALTOS SANTA CLARA COUNTY STATE OF CALIFORNIA

MARCH, 2024

PREPARED BY:

1735 ENTERPRISE DR., STE. 109 PH (707) 425-6234
FAIRFIELD, CA 94533 FAX (707) 425-1969

WEST EDITH AVENUE
(46' Public R/W)

FND. BRASS DISC RCE 7595 IN WELL PER R-2 & R-3 @ 3rd. STREET

BASIS OF BEARINGS

N89°45'00"E

206.00'
(206.04' R-2)

(411.97 R-3)
(412.09' R-2)
411.99' (M-M)
205.99'
(206.04' R-2)

FND. BRASS DISC RCE 7595 IN WELL PER R-2, R-3, R-4, & R-5

26'

20'

N89°45'00"E

153.40'
(153.32' R-2)

(155.95' R-2)
156.03'

R=20.00
L=20.32 (T)
Δ=58°12'00" (T)

SEE DETAIL

THIRD STREET

S32°03'00"E

S32°03'00"E

109.33'
(109.35' R-2)

(80.86' R-2)
80.83'

PARCEL 1
472 M 54

(130.30' R-1
130.41 R-2)
130.37'

S32°03'00"E
31.62'

12.00'
13.00'

Fnd. Cross @ Curb per R-5, Held on PL Projected

(R-5 & Meas.)
50.78'

S32°03'00"E

FOURTH STREET
(50' Public R/W)

200.84' (R-4 & Meas.)

PARCEL 1
7,042± Sq. Ft.

N57°57'00"E

142.07'
(142.00' R-1
142.11' R-2)

I.P. Per R-2
S.F.N.F.

N32°03'00"W

2' P.S.E. & P.A.E.
DEDICATED HEREON

16' PUBLIC ALLEY

50.00'

8'

N57°57'00"E

Nail/Tag Per R-5
S.F.N.F.

LOT 1
368 M 11

25'

25'

25.12'
(Held per R-4)

Fnd 3/4" IP & CAP
RCE 11064 Per R-4

I.P. Per R-2
S.F.N.F.

R=20.00'
L=14.46'
Δ=41°24'35"

Prior Dedication to City of Los Altos Per 9127 O.R. 563

N89°45'00"E 156.03'

2.63'

130.37'
9.49'

N57°57'00"E

23.93'
N89°45'00"E

R=20.00
L=20.32 (T)
Δ=58°12'00" (T)

PG&E and PT&T Utility Esmnt. per 9219 OR 559

N41°09'35"E (R)

N57°57'00"E (R)

DETAIL
N.T.S.

JOB NO. 521082

RECORDING REQUESTED BY:

City of Los Altos

WHEN RECORDED, MAIL TO:

City Clerk, City of Los Altos

1 North San Antonio Road

Los Altos, CA 94022

RECORD WITHOUT FEE UNDER
§§ 27383 & 27388.1 GOVERNMENT CODE

Improvement Agreement No. 2023-24
PROJECT TITLE
APN: 167-38-061
14 Fourth Street LLC

IMPROVEMENT AGREEMENT
14 Fourth Street

This Improvement Agreement (this "Agreement") is made and entered into by and between the CITY OF Los Altos, a municipal corporation (hereinafter "City"), and 14 FOURTH STREET, LLC (hereinafter "Developer"). City and Developer may be collectively referred to herein as the "parties."

RECITALS

A. In accordance with the Subdivision Map Act (California Government Code Sections 66410, *et seq.*), and the Subdivision Ordinance (Los Altos Municipal Code, Title 13), and the Street Ordinance (Los Altos Municipal Code, Title 9), the Developer has submitted to the City a Final Map (hereinafter "Final Map") for the project known as 14 Fourth Street (hereinafter "Project").

B. The Project is geographically located within the boundaries of the Tentative Subdivision Map known as 14 Fourth Street Tentative Map (hereinafter "Tentative Map"). The Tentative Map is on file with the City Engineer and is incorporated herein by reference. The area within the boundaries of the Tentative Map is described in **Exhibit A** hereto (the "Property").

C. The City's approval of the Tentative Map was subject to specified conditions of approval (hereinafter "Conditions"). The Conditions are attached hereto as **Exhibit B** and incorporated herein by reference.

D. As required by the Conditions, the Tentative and Final Maps, and the other Project entitlements, Developer shall construct public improvements in connection with the Project along Fourth Street and the rear alley behind the project, including but not limited to the following: installation of approximately 48 linear feet of concrete vertical curb and gutter, 390 square feet of concrete sidewalk, 144 square feet of concrete driveway approach, installation of one accessible ramp, three (3) truncated domes installation per City standard, joint trench from pole to transformer, 15 linear feet of sewer lateral and cleanout, installation of approximately 800 square feet of alley restoration, 100 square feet of paving at 2 feet easement, 1,862 square feet of micro-surfacing half of the street along Fourth Street, and installation of all appurtenances associated with above listed improvements (collectively, the "Work").

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS IDENTIFIED HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. **<u>SCOPE OF WORK</u>.** The Developer shall perform, or cause to be performed, the Work described in the Plans and Specifications and the Conditions (hereinafter "Work"), to the satisfaction of the City Engineer. The Work shall be performed, and all materials and labor shall be provided, at the Developer's sole cost and expense. No change shall be made to the Scope of Work unless authorized in writing by the City Engineer.

2. **<u>PERMITS, LICENSES, AND COMPLIANCE WITH LAW</u>.** The Developer shall, at the Developer's expense, obtain and maintain all necessary permits and licenses for the performance of the Work. The Developer shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement. *WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, DEVELOPER HEREBY AGREES TO BE BOUND BY THE LABOR CODE PROVISIONS ATTACHED HERETO AT* ***EXHIBIT C****.*

3. **DEVELOPER'S AUTHORIZED REPRESENTATIVE.** At all times during the progress of the Work, Developer shall have a competent foreperson or superintendent (hereinafter "Authorized Representative") on site with authority to act on behalf of the Developer. The Developer shall, at all times, keep the City Engineer informed in writing of the name and telephone number of the Authorized Representative. The Developer shall, at all times, keep the City Engineer informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work.

4. **IMPROVEMENT SECURITY.** The Developer shall furnish faithful performance and labor and material security concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work. The Developer shall furnish warranty security prior to the City's acceptance of the Work. The form of the security shall be as authorized by the Subdivision Map Act (including Government Code Sections 66499, *et seq.*) and Section 13.20.210 the Los Altos Municipal Code, and as set forth below:
   - **4(a). Faithful Performance** security in the amount of $144,899.00 (which amount is equal to the estimated cost to construct the Work in accordance with the Plans and Specifications) to secure faithful performance of this Agreement (until the date on which the City Council accepts the Work as complete) pursuant to Government Code Sections 66499.1, 66499.4, and 66499.9.
   - **4(b). Labor and Material** security in the amount of $72,499.50 (which amount is equal to fifty (50) percent of the estimated cost to construct the Work in accordance with the Plans and Specifications) to secure payment by the Developer to laborers and materialmen pursuant to Government Code Sections 66499.2, 66499.3, and 66499.4.
   - **4(c). Warranty** security in the amount of $14,489.00 (which amount is equal to ten (10) percent of the estimated cost to construct the Work in accordance with the Plans and Specifications) to secure faithful performance of this Agreement (from the date on which the City accepts the Work as complete until one year thereafter) pursuant to Government Code Sections 66499.1, 66499.4, and 66499.9.

5. **BUSINESS TAX.** The Developer shall apply for and pay the business license tax for a business license, in accordance with Los Altos Municipal Code Chapter 4.04.

6. **INSURANCE.** Developer shall, throughout the duration of this Agreement, maintain insurance to cover Developer (including its agents, representatives, contractors, subcontractors, and employees) in connection with the performance of services under this Agreement. **Exhibit D** of this Agreement identifies the minimum insurance levels with which Developer shall comply; however, the minimum insurance levels shall not relieve Developer of any other performance responsibilities under this Agreement (including the indemnity requirements), and Developer may carry, at its own expense, any additional insurance it deems necessary or prudent. The general liability and automobile policies required under **Exhibit D** shall contain, or be endorsed to contain, provision for the City, its officers, officials, employees, agents and volunteers, to be covered as additional insureds as respects alleged liability arising out of activities performed by or on behalf of the Developer under this Agreement. Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any services, the Developer shall furnish written proof of insurance (certificates and endorsements), in a form acceptable to the City. Developer shall provide substitute written proof of insurance no later than 30 days prior to the expiration date of any insurance policy required by this Agreement.

7. **REPORTING DAMAGES.** If any damage (including death, personal injury or property damage) occurs in connection with the performance of this Agreement, Developer shall immediately notify the

City Risk Manager's office by telephone at, and Developer shall promptly submit to the City's Risk Manager and the City Manager or desingee, a written report (in a form acceptable to the City) with the following information: (a) a detailed description of the damage (including the name and address of the injured or deceased person(s), and a description of the damaged property), (b) name and address of witnesses, and (c) name and address of any potential insurance companies.

8. INDEMNIFICATION. Developer shall indemnify, hold harmless, and defend (with counsel reasonably acceptable to the City) the City and its elected officials, officers, agents and employees from and against any and all claims (including all litigation, demands, damages, liabilities, costs, and expenses, and including court costs and attorneys' fees) resulting or arising from performance, or failure to perform, under this Agreement (with the exception of the gross negligence or willful misconduct of the City).

9. TIME OF PERFORMANCE. Time is of the essence in the performance of the Work, and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. The Developer shall submit all requests for extensions of time to the City, in writing, no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due.

9(a). Commencement of Work. No later than fifteen (15) days prior to the commencement of Work, the Developer shall provide written notice to the City Engineer of the date on which the Developer shall commence Work. The Developer shall not commence Work until after the notice required by this section is properly provided, and the Developer shall not commence Work prior to the date specified in the written notice.

9(b). Schedule of Work. Concurrently with the written notice of commencement of Work, the Developer shall provide the City with a written schedule of Work, which shall be updated in writing as necessary to accurately reflect the Developer's prosecution of the Work.

9(c). Completion of Work. The Developer shall complete all Work by no later than three hundred sixty-five (365) days after the City's execution of this Agreement.

10. INSPECTION BY THE CITY. In order to permit the City to inspect the Work, the Developer shall, at all times, provide to the City proper and safe access to the Project site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation. Developer shall reimburse the City for the costs of the City Engineer's inspections of the Work, as required by Los Altos Municipal Code Section 13.20.190.

11. DEFAULT. If either party ("demanding party") has a good faith belief that the other party ("defaulting party") is not complying with the terms of this Agreement, the demanding party shall give written notice of the default (with reasonable specificity) to the defaulting party, and demand the default to be cured within ten days of the notice. If: (a) the defaulting party fails to cure the default within ten (10) days of the notice, or, (b) if more than ten (10) days are reasonably required to cure the default and the defaulting party fails to give adequate written assurance of due performance within ten (10) days of the notice, then (c) the demanding party may terminate this Agreement upon written notice to the defaulting party.

11(a). The Developer shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist:

11(a)(1). The Developer is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.
11(a)(2). The Developer abandons the Project site.
11(a)(3). The Developer fails to perform one or more requirements of this Agreement.
11(a)(4). The Developer fails to replace or repair any damage caused by Developer or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work.
11(a)(5). The Developer violates any legal requirement related to the Work.

11(b). In the event that the Developer fails to cure the default, the City may, in the discretion of the City Engineer, take any or all of the following actions:
11(b)(1). Cure the default and charge the Developer for the costs therefore, including administrative costs and interest in an amount equal to seven percent (7%) per annum from the date of default.
11(b)(2). Demand the Developer to complete performance of the Work.
11(b)(3). Demand the Developer's surety (if any) to complete performance of the Work.

12. ACCEPTANCE OF WORK. Prior to acceptance of the Work by the City Engineer, the Developer shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the Project site. Neither the final certificate of payment, nor any provision in this Agreement, nor partial or entire use or occupancy of the improvements by the City shall constitute an acceptance of the Work not done in accordance with this Agreement or relieve Developer of liability pursuant to Section 13, below. The Developer's obligation to perform the Work shall not be satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges have been paid, the City Engineer has accepted the Work as complete, and the City Council has authorized the release of the security for faithful performance as described in Government Code Section 66499.7.

13. WARRANTY PERIOD. The Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City. In the event that (during the one year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of the Developer under this Agreement, the Developer shall be in default.

14. RELATIONSHIP BETWEEN THE PARTIES. Developer is, and at all times shall remain, an independent contractor solely responsible for all acts of its employees, agents, contractors, or subcontractors, including any negligent acts or omissions. Developer is not City's agent, and shall have no authority to act on behalf of the City, or to bind the City to any obligation whatsoever, unless the City provides prior written authorization to Developer.

15. CONFLICTS OF INTEREST PROHIBITED. Developer (including its employees, agents, contractors, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Developer maintains or acquires a conflicting interest, any contract with the City (including this Agreement) involving Developer's conflicting interest may be terminated by the City.

16. NONDISCRIMINATION. Developer shall comply with all applicable federal, state, and local laws regarding nondiscriminatory employment practices, whether or not said laws are expressly stated in this Agreement. Developer shall not discriminate against any employee or applicant because of race, color, ancestry, ethnicity, religious creed, national origin, physical disability,

mental disability, medical condition, marital or family status, sexual orientation, gender or gender identification, age (over 40), veteran status, or sex.

17. **NOTICES.** All notices required or contemplated by this Agreement shall be in writing and shall be delivered to the respective party as set forth in this section. Communications shall be deemed to be effective upon the first to occur of: (a) actual receipt (or refusal) by a party, or (b) actual receipt (or refusal) at the address designated below, or (c) three (3) working days following deposit in the United States Mail of registered or certified mail sent to the address designated below. Either party may modify their respective contact information identified in this section by providing notice to the other party.

TO: City	**To: Developer**
Attn: City Clerk's Office City of Los Altos 1 N. San Antonio Road Los Altos, CA 94022	Attn: 14 Fourth Street LLC PO Box 60970 Palo Alto, CA 94303

18. **HEADINGS.** The heading titles for each paragraph of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.

19. **SEVERABILITY.** If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.

20. **GOVERNING LAW, JURISDICTION, AND VENUE.** The interpretation, validity, and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Santa Clara.

21. **ATTORNEYS' FEES.** In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.

22. **ASSIGNMENT AND DELEGATION.** This Agreement, and any portion thereof, shall not be assigned or transferred, nor shall any of the Developer's duties be delegated, without the written consent of the City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force or effect. A consent by the City to one assignment shall not be deemed to be a consent to any subsequent assignment.

23. **MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.

24. **WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

25. **<u>CONFLICTS</u>.** If any conflicts arise between the terms and conditions of this Agreement and the terms and conditions of the attached exhibits or any documents expressly incorporated, the terms and conditions of this Agreement shall control.

26. **<u>ENTIRE AGREEMENT</u>.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the Work described herein. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.

27. **<u>COVENANT RUNNING WITH THE LAND</u>.** This Agreement is entered into as a condition of the Tentative Map, is an instrument affecting the title or possession of the real property, and is intended to run with the land. All the terms, covenants and conditions herein imposed shall be binding upon and inure to the benefit of City, Developer, the successors in interest of Developer, their respective successors and permitted assigns, and all subsequent owners of a fee interest in the Property or of a beneficial interest substantially equivalent to a fee interest. The obligations of the Developer under this Agreement shall be the joint and several obligations of each and all of the parties comprising Developer, if Developer consists of more than one individual and/or entity. Upon the sale or division of the Property, the terms of this Agreement shall apply separately to each parcel and the fee owners of each parcel shall succeed to the obligations imposed on Developer by this Agreement.

28. **<u>MISCELLANEOUS</u>.** This Agreement may be executed in counterparts, each of which shall be deemed an original. There are no third-party intended beneficiaries of this Agreement. This Agreement represents the contributions of both parties, each of whom has had the opportunity to be represented by competent counsel, and the rule stated in Civil Code Section 1654 that ambiguities in a contract be construed against the drafter shall have no application hereto.

29. **<u>SIGNATURES</u>.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Developer and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the City and Developer do hereby agree to the full performance of the terms set forth herein.

CITY OF LOS ALTOS

____

By: Gabe Engeland
Title: City Manager
Date: _________________

LIMITED LIABILITY COMPANY
14 Fourth Street, LLC

____

By: John Suppes
Title: Managing Member
Date: _________________

CITY OF LOS ALTOS – IMPROVEMENT AGREEMENT
14 Fourth Street

APPROVED AS TO FORM:

By: __________________________
Jolie Houston
Title: City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

The land referred to is situated in the County of Santa Clara, City of Los Altos, State of California, and is described as follows:

Lot 18 in Block 4, as shown on that certain Map entitled, “Map No. 1 of the Town of Los Altos”, which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on October 25, 1907, in Book “L” of Maps, at Page(s) 99.

EXCEPTING THEREFROM: that portion granted to The City of Los Altos, a Municipal Corporation, recorded on November 19, 1970 in Book 9127 of Official Records, at Page 563, under Recorder’s Series Number 3907414.

APN: 167-38-061

EXHIBIT B

CONDITIONS OF APPROVAL

D22-0006 & TM22-0004 14 Fourth Street

GENERAL

1. **Expiration**
   The Design Review Approval will expire on May 3, 2025 unless prior to the date of expiration, a building permit is issued, or an extension is granted pursuant to Section 14.76.090 of the Zoning Code.

2. **Approved Plans**
   Project approval is based upon the plans received on October 15, 2022 except as modified by these conditions.

3. **Landscaping**
   The project shall be subject to the City's Water Efficient Landscape Ordinance (WELO) pursuant to Chapter 12.36 of the Municipal Code if 2,500 square feet or more of new or replaced landscape area, including irrigated planting areas, turf areas, and water features is proposed. Any project with an aggregate landscape area of 2,500 square feet or less may conform to the prescriptive measures contained in Appendix D of the City's Model Water Efficient Landscape Ordinance.

4. **Tree Preservation Requirements**
   All recommendations for tree preservation, pre-construction treatments, and tree-protection during construction that are listed on page 11 of the project's arborist report shall be incorporated into the building permit plan submittal.

5. **Trees in the Public Right-of-Way**
   Prior to commencement of removal and/or replacement of any trees located within the public right-of-way, the applicant shall obtain the approval from the Maintenance Service Department.

6. **Encroachment Permit**
   An encroachment permit, and/or an excavation permit shall be obtained prior to any work done within the public right-of-way and it shall be in accordance with plans to be approved by the City Engineer.

7. **Public Utilities**
   The applicant shall contact electric, gas, communication and water utility companies regarding the installation of new utility services to the site.

8. **Municipal Regional Stormwater Permit**
   The project shall comply with City of Los Altos Municipal Regional Stormwater (MRP) NPDES Permit No. CA S612008, Order No. R2-2022-0018 dated May 11, 2022.

9. **Americans with Disabilities Act**
   All improvements shall comply with Americans with Disabilities Act (ADA). Latest edition of Caltrans ADA requirements shall apply to all improvements in the public right-of-way.

10. **Sewer Lateral**

Any proposed sewer lateral connection shall be approved by the City Engineer. Only one sewer lateral per lot shall be installed. All existing unused sewer laterals shall be abandoned according to the City Standards, cut and cap 12" away from the main.

11. **Transportation Permit**
    A Transportation Permit, per the requirements specified in California Vehicle Code Division 15, is required before any large equipment, materials or soil is transported or hauled to or from the construction site. Applicant shall pay the applicable fees before the transportation permit can be issued by the Traffic Engineer.
12. **Pollution Prevention**
    The improvement plans shall include the "Blueprint for a Clean Bay" plan sheet in all plan submittals.
13. **Storm Water Management Plan**
    The Applicant shall submit a Storm Water Management Plan (SWMP) in compliance with the MRP. The SWMP shall be reviewed and approved by a City approved third party consultant at the Applicant's expense. The recommendations from the Storm Water Management Plan (SWMP) shall be shown on the building plans.
14. **Civil Engineering Drawings**
    The applicant shall submit civil engineering drawings that show property lines with bearing and easements.
15. **Indemnity and Hold Harmless**
    The property owner agrees to indemnify and hold City harmless from all costs and expenses, including attorney's fees, incurred by the City or held to be the liability of City in connection with City's defense of its actions in any proceeding brought in any State or Federal Court, challenging the City's action with respect to the applicant's project.

PRIOR TO FINAL MAP RECORDATION

16. **Public Access Easement Dedication**
    The applicant shall dedicate public access easements for the purpose of providing vehicle and pedestrian access shall be dedicated as follows:
    a. An easement of two feet along the rear alley for use as a public right-of-way.
17. **Public Utility Dedication**
    The applicant shall dedicate public utility easements as required by the utility companies to serve the site.
18. **Subdivision Agreement**
    The applicant shall sign and return Subdivision Agreement to the City for records and recordation.
19. **Payment of Fees**
    The applicant shall pay all applicable fees, including but not limited to sanitary sewer connection and impact fees, parkland dedication in lieu fees, traffic impact fees, public art impact fee and map check fee plus deposit as required by the City of Los Altos Municipal Code.

PRIOR TO BUILDING PERMIT SUBMITTAL

20. **Conditions of Approval**
    Incorporate the conditions of approval into the title page of the plans and provide a letter which explains how each condition of approval has been satisfied and/or which sheet of the plans the information can found.
21. **Tree Protection Note**

On the grading plan and/or the site plan, show all tree protection fencing and add the following note: "All tree protection fencing shall be chain link and a minimum of five feet in height with posts driven into the ground."

22. **Reach Codes**
Building Permit Applications submitted on or after January 26, 2021 shall comply with specific amendments to the 2019 California Green Building Standards for Electric Vehicle Infrastructure and the 2019 California Energy Code as provided in Ordinances Nos. 2020-470A, 2020-470B, 2020-470C, and 2020-471 which amended Chapter 12.22 Energy Code and Chapter 12.26 California Green Building Standards Code of the Los Altos Municipal Code. The building design plans shall comply with the standards and the applicant shall submit supplemental application materials as required by the Building Division to demonstrate compliance.

23. **California Water Service Upgrades**
You are responsible for contacting and coordinating with the California Water Service Company any water service improvements including but not limited to relocation of water meters, increasing water meter sizing or the installation of fire hydrants. The City recommends consulting with California Water Service Company as early as possible to avoid construction or inspection delays.

24. **Green Building Standards**
Provide verification that the house will comply with the California Green Building Standards pursuant to Chapter 12.26 of the Municipal Code and provide a signature from the project's Qualified Green Building Professional Designer/Architect and property owner.

25. **Underground Utility Location**
Show the location of underground utilities pursuant to Chapter 12.68 of the Municipal Code. Underground utility trenches shall avoid the drip-lines of all protected trees unless approved by the project arborist and the Planning Division.

26. **Fire Alarm System**
Required fire alarm system shall be designed and installed as required in the currently adopted edition of CFC Sec, 907, as adopted and amended by the City of Los Altos and referenced codes and Standards, including, but not limited to, NFPA 72. Add a note on the building permit plan set that fire alarm will be installed.

27. **Fire Sprinklers Required:**
(As Noted on Sheet A0.0) Approved automatic sprinkler systems in new and existing buildings and structures shall be provided in the locations described in this Section or in Sections 903.2.1 through 903.2.18 whichever is the more restrictive. For the purposes of this section, firewalls used to separate building areas shall be constructed in accordance with the California Building Code and shall be without openings or penetrations. NOTE: The owner(s), occupant(s) and any contractor(s) or subcontractor(s) are responsible for consulting with the water purveyor of record in order to determine if any modification or upgrade of the existing water service is required. A State of California licensed (C-16) Fire Protection Contractor shall submit plans, calculations, a completed permit application and appropriate fees to this department for review and approval prior to beginning their work. CFC Sec. 903.2

28. **Buildings and Facilities Access:**
(As Noted on Sheet A1.4) Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or with the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility. [CFC, Section 503.1.1].

29. **Ground ladder access:**
(As Noted on Sheet A-1.4) Ground-ladder rescue from second and third floor rooms shall be made possible for fire department operations. With the climbing angle of seventy five degrees maintained, an approximate walkway width along either side of the building shall be no less than seven feet clear. Landscaping shall not be allowed to interfere with the required access. CFC Sec. 503 and 1030 NFPA 1932 Sec. 5.1.8 through 5.1.9.2.

30. **Required Fire Flow:**
(Letter received) The minimum require fireflow for this project is 1250 Gallons Per Minute (GPM) at 20 psi residual pressure. This fireflow assumes installation of automatic fire sprinklers per CFC [903.3.1.3].

31. **Fire Hydrant Systems Required:**
(As Noted on Sheet C-1.1) Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, onsite fire hydrants and mains shall be provided where required by the fire code official. Exception: For Group R-3 and Group U occupancies the distance requirement shall be 600 feet. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3, the distance requirement shall be not more than 600 feet. [CFC, Section 507.5.1]. Existing hydrants on West Edith Ave.

32. **Knox Key Boxes/Locks Where Required for Access:**
(As Noted on Sheet A1.4) Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for lifesaving or firefighting purposes, the fire code official is authorized to require a key box to be installed in an approved location. The Knox Key Box shall be a of an approved type and shall contain keys to gain necessary access as required by the fire code official. Locks. An approved Knox Lock shall be installed on gates or similar barriers when required by the fire code official. Key box maintenance. The operator of the building shall immediately notify the fire code official and provide the new key when a lock is changed or re-keyed. The key to such lock shall be secured in the key box. [CFC Sec. 506].

33. **Water Supply Requirements:**
(As Noted on Sheet A1.4) Potable water supplies shall be protected from contamination caused by fire protection water supplies. It is the responsibility of the applicant and any contractors and subcontractors to contact the water purveyor supplying the site of such project, and to comply with the requirements of that purveyor. Such requirements shall be incorporated into the design of any water- based fire protection systems, and/or fire suppression water supply systems or storage containers that may be physically connected in any manner to an appliance capable of causing contamination of the potable water supply of the purveyor of record. Final approval of the system(s) under consideration will not be granted by this office until compliance with the requirements of the water purveyor of record are documented by that purveyor met by the applicant(s). 2019 CFC Sec. 903.3.5 and Health and Safety Code 13114.7.

34. **Address identification:**
(As Noted on Sheet A1.4) New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (101.6 mm) high with a minimum stroke width of 0.5 inch (12.7 mm). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained. CFC Sec. 505.1.

35. **Construction Site Fire Safety:**

All construction sites must comply with applicable provisions of the CFC Chapter 33 and our Standard Detail and Specification S1-7. Provide appropriate notations on subsequent plan submittals, as appropriate to the project. CFC Chp. 33.

36. **Fire Department Connection:**
(As Noted on Sheet C-1.1) The fire department connection (FDC) shall be installed at the street on the street address side of the building. It shall be located within 100 feet of a public fire hydrant and within ten (10) feet of the main PIV (unless otherwise approved by the Chief due to practical difficulties). FDC's shall be equipped with a minimum of two (2), two-and-one-half (2- 1/2") inch national standard threaded inlet couplings. Orientation of the FDC shall be such that hose lines may be readily and conveniently attached to the inlets without interference. FDC's shall be painted safety yellow. [SCCFD, SP-2 Standard].

37. **Payment of Fees**
The applicant shall pay all applicable fees, including but not limited to sanitary sewer connection and impact fees as required by the City of Los Altos Municipal Code.

38. **School Fee Payment**
In accordance with Section 65995 of the California Government Code, and as authorized under Section 17620 of the Education Code, the property owner shall pay the established school fee for each school district the property is located in and provide receipts to the Building Division. The City of Los Altos shall provide the property owner the resulting increase in assessable space on a form approved by the school district. Payments shall be made directly to the school districts.

39. **Final Map Recordation**
The applicant shall record the Parcel Map. Plats and legal descriptions of the Parcel Map shall be submitted for review by the City Land Surveyor. Applicant shall provide a sufficient fee retainer to cover the cost of the map review by the City.

40. **Storm Water Filtration Systems**
The Applicant shall insure the design of all storm water treatment systems and devices are without standing water to avoid mosquito/insect infestation.

41. **Cost Estimate and Performance Bonds**
The applicant shall submit a cost estimate for the improvements in the public right-of-way and shall submit a 100 percent performance bond and a 50 percent labor and material bond (to be held 6 months after acceptance of improvements) for the work in the public right-of-way.

42. **Grading and Drainage Plan**
The Applicant shall submit on-site grading and drainage plans that include (i.e. drain swale, drain inlets, rough pad elevations, building envelopes, drip lines of major trees, elevations at property lines, all trees and screening to be saved) for approval by City Engineer. No grading or building pads are allowed within two-thirds of the drip line of trees unless authorized by a certified arborist and the Planning Department.

43. **Sewage Capacity Study**
The applicant shall submit calculations showing that the City's existing sewer line will not exceed two-thirds full due to the project's sewer loads. Calculations shall include the 6" main from the front of the property to the point where it connects to the 12" sewer line on West Edith Ave. For any segment that is calculated to exceed two-thirds full for average daily flow or for any segment that the flow is surcharged in the main due to peak flow, the applicant shall replace the sewer line with a larger sewer line.

44. **Construction Management Plan**
The Applicant shall submit a construction management plan for review and approval by the Community Development Director and the City Engineer. The construction management plan shall address any construction activities affecting the public right-of-way, including but not limited to excavation, traffic control, truck routing, pedestrian protection, material storage, earth retention and construction vehicle parking. The plan shall provide specific details with regards to how construction vehicle parking will be

managed to minimize impacts on nearby single-family neighborhoods. Sidewalks, parking and travel lanes along First Street and Whitney Street shall not be closed for the full duration of the project. Closures will be reviewed and approved with Encroachment Permit submittals.

45. **Solid Waste Ordinance Compliance**
The Applicant shall be in compliance with the City's adopted Solid Waste Collection, Remove, Disposal, Processing & Recycling Ordinance (LAMC Chapter 6.12) which includes a mandatory requirement that all multi-family dwellings provide for recycling and organics collection programs.

46. **Solid Waste and Recyclables Disposal Plan**
The Applicant shall contact Mission Trail Waste Systems and submit a solid waste and recyclables disposal plan indicating the type, size and number of containers proposed, and the frequency of pick-up service subject to the approval of the Environmental Services and Utilities Department. The Applicant shall also submit evidence that Mission Trail Waste Systems has reviewed and approved the size and location of the proposed trash enclosure. The enclosure shall be designed to prevent rainwater from mixing with the enclosure's contents and shall be drained into the City's sanitary sewer system. The enclosure's pad shall be designed to not drain outward, and the grade surrounding the enclosure designed to not drain into the enclosure. In addition, Applicant shall show on plans the proposed location of how the solid waste will be collected by the refusal company. Include the relevant garage clearance dimension and/or staging location with appropriate dimensioning on to plans.

PRIOR TO FINAL OCUPANCY

47. **Condominium Map**
The applicant shall record the condominium map as required by the City Engineer.

48. **Public Alleyway**
The Applicant shall improve the entire width of the alleyway along the rear of the project with the treatment approved by the City Engineer.

49. **Power Pole Northwest Corner of the Property**
The applicant shall be responsible for the removal/undergrounding of the existing overhead utilities along the boundary of the parcel. The last power pole at the northwest corner of the property shall be removed.

50. **ADA Ramp**
The Applicant shall remove the existing ADA ramp on the corner of West Edith Avenue and Fourth Street and install new ADA ramp in accordance with current Caltrans standards.

51. **Sidewalk in Public Right-of-Way**
The Applicant shall remove and replace entire sidewalk, landscaping strip and curb and gutter along the frontage of Fourth Street as directed by the City Engineer. All sidewalks in the public right-of-way shall be City Standard concrete sidewalks.

52. **Micro-surfacing Fourth Street**
The applicant shall install micro-surfacing treatment up to half width of Fourth Street.

53. **Parking Stall and Red Curb Striping**
The applicant shall install red curb on Fourth Street as directed by the City Engineer or his designee.

54. **Public Infrastructure Repairs**
The Applicant shall repair any damaged right-of-way infrastructures and otherwise displaced curb, gutter and/or sidewalks and City's storm drain inlet shall be removed and replaced as directed by the City Engineer or his designee. The Applicant is responsible to resurface (grind and overlay) half of the street along the frontage of Fourth Street if determined to be damaged during construction, as directed by the City Engineer or his designee.

55. **Maintenance Bond**

A one-year, ten-percent maintenance bond shall be submitted upon acceptance of improvements in the public right-of-way.

56. **SWMP Certification**
The Applicant shall have a final inspection and certification done and submitted by the Engineer who designed the SWMP to ensure that the treatments were installed per design. The Applicant shall submit a maintenance agreement to City for review and approval for the stormwater treatment methods installed in accordance with the SWMP. Once approved, City shall record the agreement.

57. **Landscape and Irrigation Installation**
All on- and off-site landscaping and irrigation shall be installed and approved by the Community Development Director and the City Engineer.

58. **Label Catch Basin Inlets**
The Applicant shall label all new or existing public and private catch basin inlets which are on or directly adjacent to the site with the "NO DUMPING - FLOWS TO ADOBE CREEK" logo as required by the City.

59. **Arborist Certification Letter**
An arborist certification letter shall be provided prior to the final occupancy to confirm the implementation of the tree preservation guidelines.

60. **Landscaping Installation**
All front yard landscaping, street trees and privacy screening trees shall be maintained and/or installed as shown on the approved plans or as required by the Planning Division.

61. **Landscape Privacy Screening**
The landscape intended to provide privacy screening shall be inspected by the Planning Division and shall be supplemented by additional screening material as required to adequately mitigate potential privacy impacts to surrounding properties.

62. **Green Building Verification**
Submit verification that the house was built in compliance with the City's Green Building Ordinance (Chapter 12.26 of the Municipal Code).

EXHIBIT C

LABOR CODE PROVISONS

1. This Agreement is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers' compensation insurance.

2. The Work is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at http://www.dir.ca.gov/DLSR.

3. Developer shall not enter into a contract with a contractor for the performance of the Work unless the contractor and its subcontractors are registered with the California Department of Industrial Relations to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions.

EXHIBIT D

INSURANCE REQUIREMENTS

Developer's performance of Work under this agreement shall not commence until Developer shall have obtained all insurance required under this Exhibit and such insurance shall have been reviewed and approved by the Risk Manager. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier.

Developer shall procure and maintain for the duration of the contract all necessary insurance against claims now and in the future for alleged injuries to persons or damages to property which may arise from or in connection with the performance of the Work by the Developer, the Contractor it's agents, representatives, employees and contractors.

INSURANCE COVERAGE AND LIMITS RESTRICTIONS

1. It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage:
   - a. Blanket contractual liability
   - b. Broad form property coverage
   - c. Personal injury

2. Insurance Services Office form covering Automobile Liability, code 1 (any auto).

3. Workers' Compensation insurance as required by the State of California and Employer's Liability insurance.

4. Such other insurance coverages and limits as may be required by the City.

B. MINIMUM LIMITS OF INSURANCE

Developer shall maintain limits no less than:

1. General Liability: $1,000,000 per occurrence for bodily injury, personal injury and property damage and a $2,000,000 aggregate. If Commercial General Liability insurance or other form with a general aggregate liability is used, either the general aggregate limit shall apply separately to this agreement or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: $1,000,000 per accident for bodily injury and property damage.

3. Employer's Liability:

Bodily Injury by Accident - $1,000,000 each accident.
Bodily Injury by Disease - $1,000,000 policy limit.
Bodily Injury by Disease - $1,000,000 each employee.

4. Such other insurance coverages and limits as may be required by the City of.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

1. Any deductibles or self-insured retentions must be declared to and approved by the City of. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City of **CITY**, its officers, officials, employees, and volunteers; or the Developer shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

2. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City.

3. The City reserves the right to obtain a full certified copy of any insurance policy and endorsement. Failure to exercise this right shall not constitute a waiver of the right to exercise later.

D. ADDITIONAL INSURED REQUIREMENTS:

The required general liability and automobile policies are to contain, or be endorsed to contain the following provisions:

a. The City, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds as respects alleged: liability arising out of activities performed by or on behalf of the Developer; products and completed operations of the Developer; premises owned, occupied or used by the Developer; or automobiles owned, leased, hired or borrowed by the Developer. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents or volunteers.

b. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.

c. The Developer's insurance shall apply separately to each insured against whom a claim is made or suit is brought except, with respect to the limits of the insurer's liability.

d. Developer shall furnish properly executed Certificates of Insurance from insurance companies acceptable to the City and signed copies of the specified endorsements for each policy prior to commencement of work under this agreement. Such documentation shall clearly evidence all coverages required above including specific evidence of separate endorsements naming the City and shall provide that such insurance shall not be materially changed, terminated or allowed to expire except after 30 days prior written notice by certified mail, return receipt requested, has been filed with the City Clerk.

Such insurance shall be maintained from the time work first commences until completion of the work under this agreement. Developer shall replace such certificates for policies expiring prior to completion of work under this agreement.

E. ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII.

F. COMPLETED OPERATIONS

Developer shall maintain insurance as required by this contract to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following the completion of this project. In the event the Developer fails to obtain or maintain completed operations coverage as required by this

agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by the Developer.

G. CROSS-LIABILITY

The Liability policy shall include a cross-liability or severability of interest endorsement.

H. FAILURE TO MAINTAIN INSURANCE COVERAGE

If Developer, for any reason, fails to maintain insurance coverage, which is required pursuant to this Agreement, the same shall be deemed a material breach of contract. The City, at its sole option, may terminate this agreement and obtain damages from the Developer resulting from said breach. Alternatively, the City may purchase such required insurance coverage, and Developer shall reimburse the City for any premium costs advanced by the City for such insurance.

I. PRIMARY AND NON-CONTRIBUTORY

For any claims related to this project, the Developer's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be in excess of the Developer's insurance and shall not contribute with it.
The additional insured coverage under the Developer's policy shall be primary and non-contributory" and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.

J. SUBCONTRACTORS

Developer shall require its contractors to maintain the same levels of insurance and provide the same indemnity that the Developer is required to provide under this Agreement. A contractor is anyone who is under contract with the Developer or any of its contractors to perform work contemplated by this Agreement. The Developer shall require all contractors to provide evidence of valid insurance and the required endorsements prior to the commencement of any work.

K. SUBROGATION WAIVER

Developer agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all Contractors, subcontractors or others involved in any way with the services to do likewise.

L. VERIFICATION OF COVERAGE

Developer shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the Citybefore the services commence.

City Council Agenda Report

Meeting Date: April 9, 2024
Initiated By: Staff
Prepared By: Scott Gerdes, Human Resources Manager
Approved By: Irene Barragan, Human Resources Director

Subject: Adopt a Resolution appointing a CalPERS Retiree as Interim Finance Director to comply with Government Code Section 21221(h)

COUNCIL PRIORITY AREA

☐Business Communities
☐Circulation Safety and Efficiency
☐Environmental Sustainability
☐Housing
☐Neighborhood Safety Infrastructure
☒General Government

RECOMMENDATION

Adopt a Resolution approving the appointment of Sarina Revillar, a CalPERS Retiree, as Interim Finance Director to comply with Government Code Section 21221(h)

POLICY QUESTION(S) FOR COUNCIL CONSIDERATION

Does the Council wish to adopt a Resolution appointing a CalPERS retiree to the vacant Finance Director position during the recruitment for a permanent appointment since an ongoing vacancy would have a negative impact on public services?

FISCAL IMPACT

The Interim Finance Director will be paid at an hourly rate of $110.00. This appointment will not cause an increase to the current fiscal year budget, as the General Fund will absorb these costs through vacancy savings.

ENVIRONMENTAL REVIEW

This action does not qualify as a “Project” as defined in California Government Code Section 15378(b) of the Guidelines for California Environmental Quality Act (CEQA).

PREVIOUS COUNCIL CONSIDERATION

None

DISCUSSION/ANALYSIS

In March of 2024, the current Finance Director notified the City Manager of their resignation from the position. Due to the critical responsibilities this position holds within the organization and the upcoming time sensitive deadline of preparing the next two-year budget for Fiscal Years 2024/25 & 2025/26, staff reached out to Sarina Revillar; a former City of Los Altos employee that retired following her role as Administrative Services Director from the Town of Los Altos Hills. Sarina Revillar served several positions within the City of Los Altos Finance Department for over 17 years between 2002 to 2019 and has extensive background knowledge of the city's finances, operations, and systems.

While the City Manager holds appointing authority for positions within the City of Los Altos, CalPERS requires contracting agencies governing bodies to adopt a resolution authorizing the appointment to comply with Government Code section 21221(h) of the Public Employees' Retirement Law.

To keep the city on track for completing the next two-year budget with Council Approval prior to July 1, 2024, staff recommend adopting a resolution appointing Sarina Revillar as Interim Finance Director to comply with Government Code Section 21221(h).

ATTACHMENTS

1. Resolution
2. Sarina Revillar's Appointment Letter

RESOLUTION NO. 2024-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS APPOINTING SARINA REVILLAR AS AN INTERIM FINANCE DIRECTOR TO COMPLY WITH GOVERNMENT CODE SECTION 21221(h)

WHEREAS, Government (Gov.) Code section 21221(h) of the Public Employees' Retirement Law permits the governing body to appoint a CalPERS retiree to a vacant position requiring specialized skills during recruitment for a permanent appointment, and provides that such appointment will not subject the retired person to reinstatement from retirement or loss of benefits so long as it is a single appointment that does not exceed 960 hours in a fiscal year; and

WHEREAS, the City of Los Altos Council desires to appoint Sarina Revillar as an interim appointment retired annuitant to the vacant position of Finance Director for the City of Los Altos under Gov. Code section 21221(h), effective April 2nd, 2024; and

WHEREAS, the City of Los Altos Council, the City of Los Altos and Sarina Revillar certify that Sarina Revillar has not and will not receive a Golden Handshake or any other retirement-related incentive; and

WHEREAS, an appointment under Gov. Code section 21221(h) requires the retiree is appointed into the interim appointment during recruitment for a permanent appointment; and

WHEREAS, the governing body has authorized the search for a permanent appointment on March 25, 2024; and

WHEREAS, this Gov. Code section 21221(h) appointment shall only be made once and therefore will end upon City Council adoption of the of the Fiscal Year 2025 & 2026 Operating and Capital Budgets; and

WHEREAS, the entire employment agreement, contract or appointment document between Sarina Revillar and the City of Los Altos has been reviewed by this body and is attached herein; and

WHEREAS, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

WHEREAS, the maximum base salary for this position is $19,811.03 and the hourly equivalent is $114.29; the minimum base salary for this position is $16,298.66 and the hourly equivalent is $94.03; and

WHEREAS, the hourly rate paid to Sarina Revillar will be $110; and

WHEREAS, Sarina Revillar has not and will not receive any other benefit, incentive, compensation in lieu of benefit or other form of compensation in addition to this hourly pay rate; and

NOW THEREFORE, BE IT RESOLVED THAT the City Council of the City of Los Altos hereby certifies the nature of the employment of Sarina Revillar as described herein and detailed in the attached appointment document and that this appointment is necessary to fill the critically needed position of Finance Director for the City of Los Altos by April 2, 2024 because employment is needed during the recruitment period to prevent stoppage of public business.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the ___ day of ____, 2024 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

____
Jonathan Weinberg, MAYOR

Attest:

____
Melissa Thurman, MMC
CITY CLERK

City of Los Altos
1 North San Antonio Road
Los Altos, California 94022-3087
Direct (650) 947-2607

April 2, 2024

RE: **APPOINTMENT LETTER**

Dear Sarina,

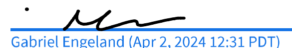
Congratulations on your appointment to the position of Interim Budget/Finance Director with the City of Los Altos. We are pleased to offer you an hourly rate of $110.00 with an effective date of Tuesday, April 2, 2024.

On your first day, you will be welcomed by Human Resources and scheduled for a new employee orientation at 11:00 am. In preparation for your orientation, please come prepared with a voided check for your paycheck direct deposit and I-9 Documents. As required by federal law, please bring documents that verify your identity and employment eligibility. You may review the acceptable documents by visiting http://www.uscis.gov/i-9-central/acceptable-documents. Please bring either one document from List A or one document from List B and one document from List C to your on-boarding.

Please note, you have been identified as a CalPERS retiree, who has the experience and specialized skills to perform the work of Financial Director while the City actively recruits for the permanent position. This appointment will conclude upon a successful recruitment to fill the permanent position or the fulfillment of the City of Los Altos budget adoption for fiscal year 2024-2025. You are limited to working 960 hours in a fiscal year.

We are very excited about you joining our organization. If you have any questions or need additional information, please do not hesitate to contact Human Resources at HR@losaltosca.gov or 650-947-2607.

Sincerely,


Gabriel Engeland (Apr 2, 2024 12:31 PDT)

Gabriel Engeland
City Manager

cc. Jon Maginot, Assistant City Manager

City Council Agenda Report

Meeting Date: April 9, 2024
Initiated By: City Council
Prepared By: Anthony Carnesecca
Approved By: Gabriel Engeland

Subject:
Flag Raising June 2024 – Progress Pride

COUNCIL PRIORITY AREA

☐Business Communities
☐Circulation Safety and Efficiency
☐Environmental Sustainability
☐Housing
☐Neighborhood Safety Infrastructure
☒General Government

RECOMMENDATION

Adopt a Resolution approving the raising of the Progress Pride flag in June 2024.

POLICY QUESTION(S) FOR COUNCIL CONSIDERATION

- In accordance with the City's flag raising policy, shall the City of Los Altos recognize the Progress Pride flag as government speech and raise the Progress Pride flag from May 31, 2024 through June 7, 2024 at City Hall?

FISCAL IMPACT

None

ENVIRONMENTAL REVIEW

Not applicable

PREVIOUS COUNCIL CONSIDERATION

November 29, 2022 & May 23, 2023

SUMMARY

- The City Council approved the Los Altos Flag Raising Policy on November 29, 2022. The policy provides that the City Council may authorize the display of flags other than the country, state, and city flags on City property, including to commemorate an event or occasion in the form of a resolution if the flag is recognized as government speech.
- Last year, City Council raised the Progress Pride flag from June 1, 2023 through June 7, 2023 at City Hall.

PURPOSE
City Council to review whether the City of Los Altos recognizes the Progress Pride flag as government speech and raise the Progress Pride flag from May 31, 2024 through June 7, 2024 and recognizes the Juneteenth flag as government speech.

BACKGROUND
At its regular meeting on November 29, 2022, the Los Altos City Council approved Resolution 2022-90 which established the City' flag raising policy. A copy of the resolution is attached to this staff report.

Los Altos' flag raising policy says that in addition to the flags of the United States, the State of California, and the City of Los Altos, "the City Council may authorize the display of other flags on City property, including to commemorate an event or occasion." Authorization to fly an additional flag must be in the form of a resolution.

At its regular meeting on March 26, 2024, the Los Altos City Council approved placing on its agenda the question of whether to fly the Progress Pride flag in the month of June 2023.

DISCUSSION/ANALYSIS
The month of June is LGBTQ+ Pride month dedicated to the celebration and commemoration of lesbian, gay, bisexual, transgender, and queer pride recognized by the federal government beginning in 1999 and continuing through today. The first Pride flag was created by American artist and gay rights activist Gilbert Baker in 1978 to be a symbol for the LGBT community. Artist Daniel Quasar released a redesign of the Pride flag, called the Progress Pride flag which includes black, brown, pink, pale blue and white stripes, to represent marginalized people of color in the LGBTQ+ community, as well as the trans community, and those living with HIV/AIDS. The Progress Pride flag image has been included as an attachment to this staff report.

ATTACHMENTS
1. Flag Raising Policy
2. Resolution
3. Exemplar of the Progress Pride Flag

RESOLUTION NO. 2022-90

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS CITY OF LOS ALTOS FLAG RAISING POLICY

WHEREAS, The City of Los Altos displays the flags of the United States, California, and the City on poles located at certain City facilities City flag poles; and

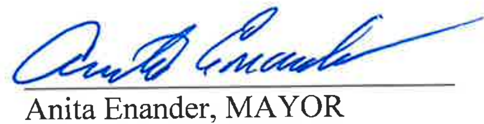
WHEREAS, from time to time, members of the City Council, City commissions, or of the public propose raising other flags on public property, including to commemorate an event or occasion; and

WHEREAS, this policy is intended to create clear guidelines for the display of flags on City property.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby adopts policy attached hereto as **Exhibit 1**.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 29th day of November, 2022 by the following vote:

AYES: Councilmembers Fligor, Weinberg, Vice Mayor Meadows
NOES: Councilmember Lee Eng, Mayor Enander
ABSENT: None
ABSTAIN: None



Anita Enander, MAYOR

Attest:

Angel Rodriguez, INTERIM CITY CLERK

EXHIBIT 1
LOS ALTOS FLAG POLICY

The flags of the United States, California, and the City may be flown on City property. The United States flag shall always be given precedence, and the flag of California shall be given precedence over the City's flag. The display of these flags shall comply with 4 U.S.C. § 1, et seq., and Government Code Section 430, et seq.

In addition to these flags, or in lieu of the display of the City's own flag, the City Council may authorize the display of other flags on City property, including to commemorate an event or occasion. Such authorization by the City Council shall take the form of a resolution, which shall include the following information:

(1) The date or dates on which the flag shall be displayed and any locations in addition to City Hall where the flag shall be displayed;
(2) A finding that the display of the flag constitutes government speech in that the particular message conveyed by the flag is a message that the City Council wishes to express on behalf of the residents of the City;
(3) A statement describing the particular message conveyed by the flag and expressing the reason or reasons the City Council wishes to express that message on behalf of the residents of the City; and
(4) A statement that the resolution is adopted pursuant to this policy and a statement of reasons why the adoption of the resolution is consistent with this policy.

Under no circumstances shall the City Council authorize the display of a flag that:

(1) Proposes a consumer transaction;
(2) Represents a group, organization, or movement that advocates the unlawful overthrow of the state or federal government;
(3) Commemorates a rebellion against the federal government by the government of any state;
(4) Advocates discrimination or intolerance against individuals on the basis of any classification specified in Civil Code Section 51;
(5) Endorses or expresses a preference for any religious sect;
(6) Advocates for or against a candidate for public office, a political party, or a ballot measure or proposition;
(7) Is considered highly offensive to persons of average sensitivity within the community; or
(8) Poses a real and substantial threat to public safety based on objective circumstances or criteria.

The City Council may consider authorizing the display of a flag pursuant to this policy by referral of the Mayor, by referral of the entire Council on motion of any Councilmember made during the time reserved at regular City Council meetings for discussion of future agenda items, or at the recommendation of a commission of the City. The City Council

may also consider authorizing the display of a flag on application of a resident or community group, as follows:

(1) The applicant shall complete a Commemorative Flag Flying/Raising Application, on a form to be created by the City Manager or designee; and
(2) A full color picture of the flag (front and back) must be included with the completed application, and the dimensions of the flag must be specified.

The City Council shall not authorize the display of the same flag more than once per year, and if it approves an application from an individual or group within a particular calendar year, it shall not consider another application from that individual or group until the following calendar year. The City Council may condition its authorization to display a particular flag on the applicant's agreement to donate the use of a flag for that purpose. The flag must be a clean and serviceable flag with dimensions no larger than 4' x 6' that is sturdy enough to be flown on an outdoor flagpole for at least one week, and the City shall not be responsible for any loss or damage to the flag while in its possession. The flag must be collected by the applicant within two business days of removal or it may be discarded or destroyed by City staff.

At the time it authorizes the display of any flag, the City Council may also authorize a flag raising ceremony. Any such ceremony shall be open to the general public, subject to reasonable rules of decorum intended to avoid disruption and reasonable efforts by law enforcement to maintain public order in case of a lawful or unlawful protest occurring at or near the site of the ceremony. If the display of the flag has been authorized by the City Council on the application of a private individual or organization, then the City Council may condition authorizing a flag raising ceremony on the applicant's agreement to pay the costs of the ceremony and to coordinate or assist in the coordination of the ceremony; provided, however, that:

(1) One or more representatives of the City shall be present at the ceremony, and at least one representative of the City shall speak at the ceremony on behalf of the City; and
(2) City staff shall oversee the coordination of the ceremony and shall supervise and maintain ultimate control over the conduct of the ceremony.

Except as provided in this policy, no flags will be displayed on City property other than the flags of the United States, California, or the City. This policy is intended for the City's sole benefit, and nothing herein is intended to confer any legal right or privilege on any member of the public.

City of Los Altos requires all non-profit organizations or Los Altos residents interested in flying or raising a flag on a City of Los Altos flag pole to meet all the below guidelines and submit a completed application.

1. Applicant Guidelines
   a. A third-party organization or individual may apply to have the City raise a particular flag on one City flagpole located at specified City flagpoles.
   b. A commemorative flag under this policy means a flag that identifies with a specific date, historical event cause, nation or group of people, whereby the city honors or commemorates the date, event, cause, nation or people by flying the flags.
   c. Only commemorative flags that are consistent with the City's vision, mission, and ongoing strategic priorities, incorporating themes of diversity, equity, social justice and inclusion.
   d. At no time will the City of Los Altos display flags that pose a danger to public health or public safety, are deemed to be inappropriate or offensive in nature, support discrimination, prejudice or religious or political movements
   e. If a flag raising ceremony is requested and approved, all flag raising ceremonies must be open to all members of the public. Guests must adhere to the City of Los Altos policy not to discriminate on the basis of gender, race, religion, sexual orientation, or any other class protected by law.
   f. Organizations or individuals may request one flag flying/raising per calendar year. If the same or similar flag was previous flown by a different organization within the one-year period, the application will be denied.
   g. Approved Commemorative flags will be flown for no longer than seven calendar days and will be raised or removed on the first workday of the week.
   h. All flags on City flagpoles will be raised in accordance with the U.S. Flag Code and all applicable laws.

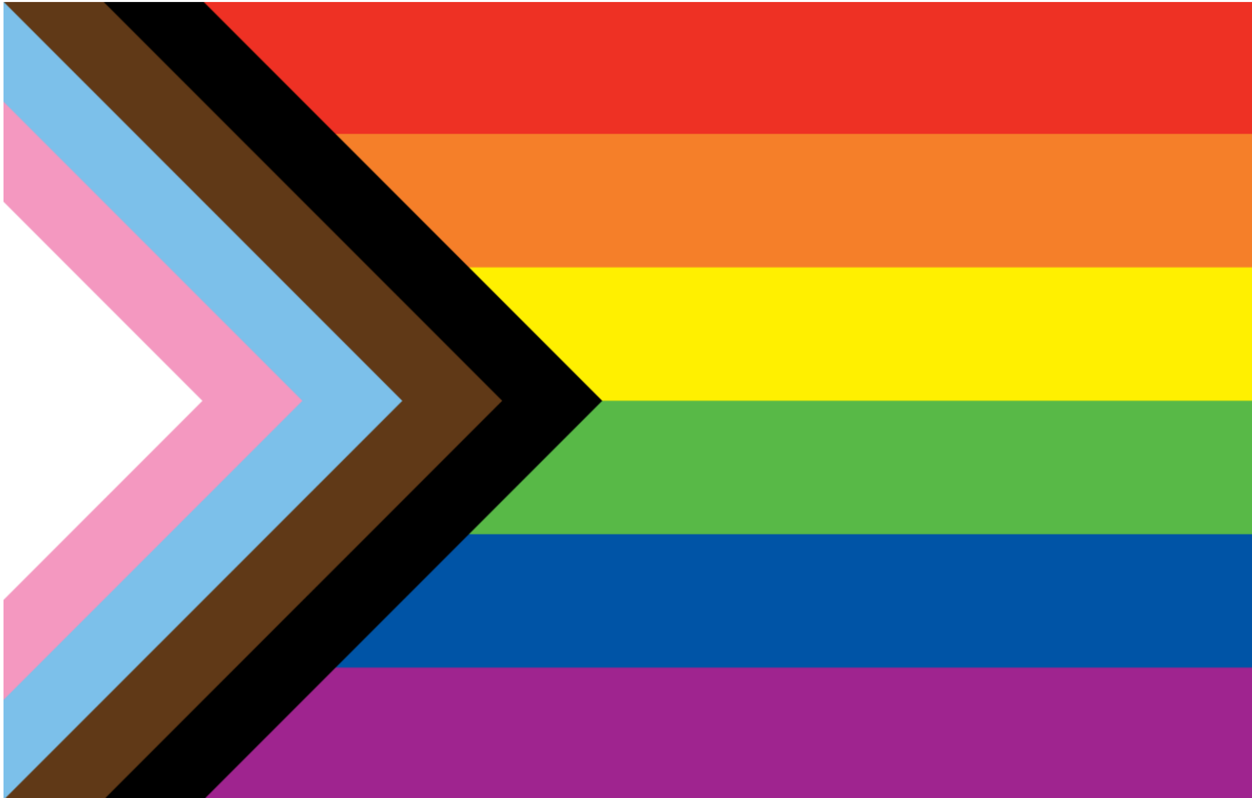
2. Application Procedure
   a. Applicant will complete the Commemorative Flag Flying/Raising Application Form.
   b. A full color picture of the flag (front and back) must be included with the completed application
   c. The flag must be a clean and serviceable flag with dimensions no larger than 4' x 6' that is sturdy enough to be flown on an outdoor flagpole for at least one week.

3. Review and Approval Process
   a. Applications will be reviewed by City staff for completeness.
   b. Approval of the commemorative flag is at the discretion of the City Council.
   c. If approved, the applicants must deliver the flag to the City Clerk's office at least three weeks in advance of the requested raising date.

4. Fee Guidelines
    a. Applicants may be required to pay cleaning/custodial or other costs, as well as police detail fees or special permit fees, depending on the scale of any flag raising event.

5. Pick Up Process
    a. After removal, flags can be picked up at the Municipal Services Center (707 Fremont Ave.).
    b. The City of Los Altos is not responsible for any harm that comes to the flag while it is flying or if not picked up within 48 hours of being removed.

Progress Pride Flag



RESOLUTION NO. 2024-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS PERMITTING THE RAISING OF THE PROGRESS PRIDE FLAG IN RECOGNITION OF PRIDE MONTH

WHEREAS, the month of June is LGBTQ+ Pride month dedicated to the celebration and commemoration of lesbian, gay, bisexual, transgender, and queer pride recognized by the federal government beginning in 1999 and continuing through today; and

WHEREAS, City Council wishes to express support for all members of the LGBTQ+ community who identify with this flag; and

WHEREAS, the first Pride flag was created by American artist and gay rights activist Gilbert Baker in 1978 to be a symbol for the LGBT community; and

WHEREAS, artist Daniel Quasar released a redesign of the Pride flag, called the Progress Pride flag which includes black, brown, pink, pale blue and white stripes, to represent marginalized people of color in the LGBTQ+ community, as well as the trans community, and those living with HIV/AIDS; and

WHEREAS, the City Council may display flags recognized as government speech under the City of Los Altos Flag Raising Policy, Resolution No. 2022-90; and

WHEREAS, the Flag Raising Policy states that the City Council may consider authorizing the display of a flag on City property by referral from the Mayor, the Council as a whole, or a City commission, or on application of a member of the community; and

WHEREAS, on May 9, 2023, the City Council gave direction to consider authorizing the display of the Pride flag as a future agenda item; and

WHEREAS, the Flag Raising Policy prohibits flags conveying specified messages, and the City Council finds that the Progress Pride flag does not convey any of the prohibited messages, and that this Resolution substantially conforms to all the requirements of the Flag Raising Policy; and

WHEREAS, the City Council finds that the Progress Pride flag is government speech in that the history and symbolism of the flag as described above constitute a message that the City of Los Altos desires to convey on behalf of its residents;

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby recognizes the LGBTQ+ community by displaying the Progress Pride flag from May 31, 2024 through June 7, 2024 at Los Altos City Hall.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 9th day of April, 2024 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

____
Jonathan D. Weinberg
Mayor

____
Melissa Thurman, MMC
City Clerk

City Council Agenda Report

Meeting Date: April 9, 2024
Initiated By: City Council
Prepared By: Anthony Carnesecca
Approved By: Gabriel Engeland

Subject:
Flag Raising June 2024 – Juneteenth

COUNCIL PRIORITY AREA

☐Business Communities
☐Circulation Safety and Efficiency
☐Environmental Sustainability
☐Housing
☐Neighborhood Safety Infrastructure
☒General Government

RECOMMENDATION

Adopt a Resolution approving the raising of the Juneteenth flag in June 2024.

POLICY QUESTION(S) FOR COUNCIL CONSIDERATION

- In accordance with the City's flag raising policy, shall the City of Los Altos recognize the Juneteenth flag as government speech and raise the Juneteenth flag for the time period June 18, 2024 through June 25, 2024 at City Hall?

FISCAL IMPACT

None

ENVIRONMENTAL REVIEW

Not applicable

PREVIOUS COUNCIL CONSIDERATION

November 29, 2022 & May 23, 2023

SUMMARY

- The City Council approved the Los Altos Flag Raising Policy on November 29, 2022. The policy provides that the City Council may authorize the display of flags other than the country, state, and city flags on City property, including to commemorate an event or occasion in the form of a resolution if the flag is recognized as government speech.
- Last year, City Council raised the Juneteenth flag for the time period June 19, 2023 through June 25, 2023 at City Hall.

PURPOSE
City Council to review whether the City of Los Altos recognizes the Juneteenth flag as government speech and raise the Juneteenth flag for the time period June 18, 2024 through June 25, 2024.

BACKGROUND
At its regular meeting on November 29, 2022, the Los Altos City Council approved Resolution 2022-90 which established the City' flag raising policy. A copy of the resolution is attached to this staff report.

Los Altos' flag raising policy says that in addition to the flags of the United States, the State of California, and the City of Los Altos, "the City Council may authorize the display of other flags on City property, including to commemorate an event or occasion." Authorization to fly an additional flag must be in the form of a resolution.

At its regular meeting on March 26, 2024, the Los Altos City Council approved placing on its agenda the question of whether to fly the Juneteenth flag in the month of June 2023.

DISCUSSION/ANALYSIS
On June 19, 1865, Union General Gordon Granger arrived at the port of Galveston Texas and announced that slavery had been ended with General Order No. 3. Juneteenth was declared a federal holiday by President Joe Biden in June 2021. The Juneteenth flag is a symbol for the Juneteenth holiday in the United States. Activist Ben Haith designed the Juneteenth flag in 1997 using the colors of red, white, and blue from the American flag with a bursting star of freedom through the new horizon of opportunity across the center of the flag. The Juneteenth flag image has been included as an attachment to this staff report.

ATTACHMENTS
1. Flag Raising Policy
2. Resolution
3. Exemplar of the Juneteenth Flag

RESOLUTION NO. 2022-90

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS CITY OF LOS ALTOS FLAG RAISING POLICY

WHEREAS, The City of Los Altos displays the flags of the United States, California, and the City on poles located at certain City facilities City flag poles; and

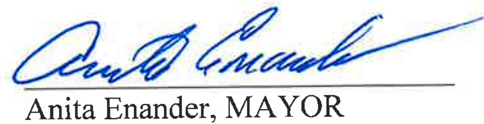
WHEREAS, from time to time, members of the City Council, City commissions, or of the public propose raising other flags on public property, including to commemorate an event or occasion; and

WHEREAS, this policy is intended to create clear guidelines for the display of flags on City property.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby adopts policy attached hereto as **Exhibit 1**.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 29th day of November, 2022 by the following vote:

AYES: Councilmembers Fligor, Weinberg, Vice Mayor Meadows
NOES: Councilmember Lee Eng, Mayor Enander
ABSENT: None
ABSTAIN: None



Anita Enander, MAYOR

Attest:

Angel Rodriguez, INTERIM CITY CLERK

EXHIBIT 1
LOS ALTOS FLAG POLICY

The flags of the United States, California, and the City may be flown on City property. The United States flag shall always be given precedence, and the flag of California shall be given precedence over the City's flag. The display of these flags shall comply with 4 U.S.C. § 1, et seq., and Government Code Section 430, et seq.

In addition to these flags, or in lieu of the display of the City's own flag, the City Council may authorize the display of other flags on City property, including to commemorate an event or occasion. Such authorization by the City Council shall take the form of a resolution, which shall include the following information:

(1) The date or dates on which the flag shall be displayed and any locations in addition to City Hall where the flag shall be displayed;
(2) A finding that the display of the flag constitutes government speech in that the particular message conveyed by the flag is a message that the City Council wishes to express on behalf of the residents of the City;
(3) A statement describing the particular message conveyed by the flag and expressing the reason or reasons the City Council wishes to express that message on behalf of the residents of the City; and
(4) A statement that the resolution is adopted pursuant to this policy and a statement of reasons why the adoption of the resolution is consistent with this policy.

Under no circumstances shall the City Council authorize the display of a flag that:

(1) Proposes a consumer transaction;
(2) Represents a group, organization, or movement that advocates the unlawful overthrow of the state or federal government;
(3) Commemorates a rebellion against the federal government by the government of any state;
(4) Advocates discrimination or intolerance against individuals on the basis of any classification specified in Civil Code Section 51;
(5) Endorses or expresses a preference for any religious sect;
(6) Advocates for or against a candidate for public office, a political party, or a ballot measure or proposition;
(7) Is considered highly offensive to persons of average sensitivity within the community; or
(8) Poses a real and substantial threat to public safety based on objective circumstances or criteria.

The City Council may consider authorizing the display of a flag pursuant to this policy by referral of the Mayor, by referral of the entire Council on motion of any Councilmember made during the time reserved at regular City Council meetings for discussion of future agenda items, or at the recommendation of a commission of the City. The City Council

may also consider authorizing the display of a flag on application of a resident or community group, as follows:

(1) The applicant shall complete a Commemorative Flag Flying/Raising Application, on a form to be created by the City Manager or designee; and
(2) A full color picture of the flag (front and back) must be included with the completed application, and the dimensions of the flag must be specified.

The City Council shall not authorize the display of the same flag more than once per year, and if it approves an application from an individual or group within a particular calendar year, it shall not consider another application from that individual or group until the following calendar year. The City Council may condition its authorization to display a particular flag on the applicant's agreement to donate the use of a flag for that purpose. The flag must be a clean and serviceable flag with dimensions no larger than 4' x 6' that is sturdy enough to be flown on an outdoor flagpole for at least one week, and the City shall not be responsible for any loss or damage to the flag while in its possession. The flag must be collected by the applicant within two business days of removal or it may be discarded or destroyed by City staff.

At the time it authorizes the display of any flag, the City Council may also authorize a flag raising ceremony. Any such ceremony shall be open to the general public, subject to reasonable rules of decorum intended to avoid disruption and reasonable efforts by law enforcement to maintain public order in case of a lawful or unlawful protest occurring at or near the site of the ceremony. If the display of the flag has been authorized by the City Council on the application of a private individual or organization, then the City Council may condition authorizing a flag raising ceremony on the applicant's agreement to pay the costs of the ceremony and to coordinate or assist in the coordination of the ceremony; provided, however, that:

(1) One or more representatives of the City shall be present at the ceremony, and at least one representative of the City shall speak at the ceremony on behalf of the City; and
(2) City staff shall oversee the coordination of the ceremony and shall supervise and maintain ultimate control over the conduct of the ceremony.

Except as provided in this policy, no flags will be displayed on City property other than the flags of the United States, California, or the City. This policy is intended for the City's sole benefit, and nothing herein is intended to confer any legal right or privilege on any member of the public.

City of Los Altos requires all non-profit organizations or Los Altos residents interested in flying or raising a flag on a City of Los Altos flag pole to meet all the below guidelines and submit a completed application.

1. Applicant Guidelines
    a. A third-party organization or individual may apply to have the City raise a particular flag on one City flagpole located at specified City flagpoles.
    b. A commemorative flag under this policy means a flag that identifies with a specific date, historical event cause, nation or group of people, whereby the city honors or commemorates the date, event, cause, nation or people by flying the flags.
    c. Only commemorative flags that are consistent with the City's vision, mission, and ongoing strategic priorities, incorporating themes of diversity, equity, social justice and inclusion.
    d. At no time will the City of Los Altos display flags that pose a danger to public health or public safety, are deemed to be inappropriate or offensive in nature, support discrimination, prejudice or religious or political movements
    e. If a flag raising ceremony is requested and approved, all flag raising ceremonies must be open to all members of the public. Guests must adhere to the City of Los Altos policy not to discriminate on the basis of gender, race, religion, sexual orientation, or any other class protected by law.
    f. Organizations or individuals may request one flag flying/raising per calendar year. If the same or similar flag was previous flown by a different organization within the one-year period, the application will be denied.
    g. Approved Commemorative flags will be flown for no longer than seven calendar days and will be raised or removed on the first workday of the week.
    h. All flags on City flagpoles will be raised in accordance with the U.S. Flag Code and all applicable laws.

2. Application Procedure
    a. Applicant will complete the Commemorative Flag Flying/Raising Application Form.
    b. A full color picture of the flag (front and back) must be included with the completed application
    c. The flag must be a clean and serviceable flag with dimensions no larger than 4' x 6' that is sturdy enough to be flown on an outdoor flagpole for at least one week.

3. Review and Approval Process
    a. Applications will be reviewed by City staff for completeness.
    b. Approval of the commemorative flag is at the discretion of the City Council.
    c. If approved, the applicants must deliver the flag to the City Clerk's office at least three weeks in advance of the requested raising date.

4. Fee Guidelines
    a. Applicants may be required to pay cleaning/custodial or other costs, as well as police detail fees or special permit fees, depending on the scale of any flag raising event.

5. Pick Up Process
    a. After removal, flags can be picked up at the Municipal Services Center (707 Fremont Ave.).
    b. The City of Los Altos is not responsible for any harm that comes to the flag while it is flying or if not picked up within 48 hours of being removed.

Juneteenth Flag

RESOLUTION NO. 2024-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS PERMITTING THE RAISING OF THE JUNETEENTH FLAG IN RECOGNITION OF THE FEDERAL HOLIDAY

WHEREAS, on June 19, 1865, Union General Gordon Granger arrived at the port of Galveston, Texas and announced that slavery had been ended with General Order No. 3; and

WHEREAS, Juneteenth was declared a federal holiday by President Joe Biden in June 2021; and

WHEREAS, the Juneteenth flag is a symbol for the Juneteenth holiday in the United States; and

WHEREAS, activist Ben Haith designed the Juneteenth flag in 1997 using the colors of red, white, and blue from the American flag with a bursting star of freedom through the new horizon of opportunity across the center of the flag; and

WHEREAS, the City Council may display flags recognized as government speech under the City of Los Altos Flag Raising Policy, Resolution No. 2022-90; and

WHEREAS, the Flag Raising Policy states that the City Council may consider authorizing the display of a flag on City property by referral from the Mayor, the Council as a whole, or a City commission, or on application of a member of the community; and

WHEREAS, on May 9, 2023, the City Council voted to consider authorizing the display of the Juneteenth flag as a future agenda item; and

WHEREAS, the Flag Raising Policy prohibits flags conveying specified messages, and the City Council finds that the Juneteenth flag does not convey any of the prohibited messages, and that this Resolution substantially conforms to all the requirements of the Flag Raising Policy; and

WHEREAS, the City Council finds that the Juneteenth flag is government speech in that the history and symbolism of the flag as described above constitute a message that the City of Los Altos desires to convey on behalf of its residents;

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby recognizes this historic event by displaying the Juneteenth flag from June 18, 2024 through June 25, 2024 at Los Altos City Hall.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 9th day of April, 2024 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

____
Jonathan D. Weinberg
Mayor

____
Melissa Thurman, MMC
City Clerk

City Council Agenda Report

Meeting Date: April 9, 2024
Prepared By: Nick Zornes
Approved By: Gabriel Engeland

Subject:
Comprehensive Accessory Dwelling Unit (ADU) Update – Housing Element Implementing Ordinance

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COUNCIL PRIORITY AREA

☐Business Communities
☐Circulation Safety and Efficiency
☐Environmental Sustainability
☒Housing
☐Neighborhood Safety Infrastructure
☐General Government

RECOMMENDATION

Introduce and Waive Further Reading of Zoning Ordinance Text Amendments which implement programs identified in the adopted housing element, Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs), and Program 6.G: Housing Mobility, and necessary amendments to comply with State law; and consideration of the City of Los Altos Planning Commission's March 21, 2024, recommendation with modifications and find that this ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

INITIATED BY:

City of Los Altos adopted 6th Cycle Housing Element, Program 2.3, and 6.G

FISCAL IMPACT

No fiscal impacts are associated with the adoption of these implementing regulations.

ENVIRONMENTAL REVIEW

This Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

BACKGROUND

On January 24, 2023, the Los Altos City Council adopted the City's 6th Cycle Housing Element 2023-2031. As required by law, the adopted housing element has several housing programs contained within. The City of Los Altos identified specific programs in its housing element that will allow it to implement the stated policies and achieve the stated goals and objectives. Programs

must include specific action steps the City will take to implement its policies and achieve its goals and objectives. Programs must also include a specific timeframe for implementation, identify the agencies or officials responsible for implementation, describe the city's specific role in implementation, and (whenever possible) identify specific, measurable outcomes.

In November 2022, the City of Los Altos was informed by the California Department of Housing and Community Development (HCD) that the existing Accessory Dwelling Unit (ADU) Ordinance was out of compliance and not consistent with State law; the existing ordinance was last updated on October 27, 2020. Additionally, HCD informed the Development Services Director during the Housing Element Update process that the Proactive Enforcement Unit had received complaints regarding existing regulations not being consistent with law. The draft ordinance is to bring the Accessory Dwelling Unit ordinance into compliance.

ANALYSIS

The City's adopted 6th Cycle Housing Element 2023-2031, included Program 2.D. The housing program requires the proposed ordinance amendments to *Encourage and streamline Accessory Dwelling Units (ADUs).*

> ***Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).***
> *The city will continue to promote ADU production through streamlined review and clear informational resources, including handouts and other materials. To increase the number of ADU's constructed, the city will:*
> - *Prepare permit ready standard ADU plans with a variety of unit sizes, bedroom count, and architectural styles.*
> - *Publicize and promote the standard ADU plans through multiple outreach methods and languages, targeting single-family households and neighborhoods. Outreach material will also include fair housing information (e.g., source of income protection).*
> - *Remove any barriers in the review process of an ADU (a preliminary planning review was previously required; the city has eliminated this requirement and will continue to no longer require the preliminary planning review).*
> - *Ensure ministerial processing of all ADUs.*
> - *Hire one additional planning staff position to review ministerial applications which includes ADUs.*
> - *Promote the availability of funding for ADUs, including the CalHFA ADU Grant Program that currently provides up to $40,000 to reimburse homeowners for predevelopment costs necessary to build and occupy an ADU.*
> - *With completion of a comprehensive fee study (see Program 3.D), the city will adopt a zero cost ($) permit fee for ADUs to incentivize the creation of ADUs.*
> - *Amend the ADU ordinance to comply with State law, pending formal comment from HCD.*
> - *Annually review ADU ordinance for compliance with State law and process any necessary amendments within six months.*

The city will also monitor ADU production and affordability throughout the planning period and implement additional action if target ADU numbers are not being met.

Responsible Body: *Development Services Department*
Funding Source: *General Fund*
Time Frame: *Ongoing; if ADU targets are not being met by January 2027, the city will review and revise efforts to increase ADU construction (e.g., fee waivers, local financing program for ADUs, etc.) no later than July 2027. Outreach will occur annually, targeting single-family households and neighborhoods. The City's action shall be commensurate with the level of shortfall from construction targets (i.e., if shortfall is significant, a rezoning action may be required, if shortfall is slight, additional incentives may be appropriate). Additional planning staff position will be budgeted and hired by the end of 2022. The city will release an RFQ by July 2023 for permit ready standard ADU plans; by the end of year 2024 the city will have adopted standard ADU design plans. The City will adopt amendments to the ADU ordinance six months from receipt of HCD's formal comment letter.*
Objective: *Adopt and provide City Standard Permit Ready ADU Plans (2024). 322 ADUs by the end of the planning period with at least 80 percent of ADUs (260 ADUs) located in the highest resource areas of the city.*
Geographic Targeting: *Highest resource, single-family neighborhoods throughout Los Altos.*

The City's adopted 6th Cycle Housing Element 2023-2031, included Program 6.G. The housing program requires the proposed ordinance amendments to create *Housing Mobility*.

Program 6.G: Housing Mobility
Housing mobility strategies consist of removing barriers to housing in areas of opportunity and strategically enhancing access (Los Altos is entirely highest resource in terms of access to opportunity and a concentrated area of affluence). To improve housing mobility and promote more housing choices and affordability throughout Los Altos, including in lower-density neighborhoods, the city will employ a suite of actions to expand housing opportunities affordable to extremely low, very low, low, and moderate income households. Actions and strategies include:

- *Accessory Dwelling Units (ADUs) – Encourage and streamline ADUs in single-family neighborhoods by preparing standardized ADU plans with a variety of unit sizes and by affirmatively marketing and outreach to increase awareness and the diversity of individuals residing in Los Altos. See Program 2.D.*
- *Junior ADUs – Develop and adopt objective standards to allow more than one (at minimum two) Junior ADU per structure by July 2025. The objective is to achieve at least 10 JADUs in lower-density neighborhoods by January 2031.*

Responsible Body: *Development Services Department*
Funding Source: *General Fund*
Time Frame: *Annually review overall progress and effectiveness in April and include information in the annual report to HCD. If the City is not on track to meet its 150 affordable housing unit goal for the 8-year RHNA cycle by 2027 (i.e., 75 affordable units built or in process by 2027), the City will consider alternative land use strategies and make necessary amendments to zoning or other land use documents to facilitate a variety of housing choices, including but not limited to, strategies that encourage*

missing middle zoning (small-scale multi-unit projects), adaptive reuse, and allowing additional ADUs and/or JADUs, within six months, if sufficient progress toward this quantified objective is not being met.
Objective: *Provide 150 housing opportunities affordable to lower income households by January 2031.*
Geographic Targeting: *Citywide, but especially lower-density neighborhoods.*

DISCUSSION
The actions included within the attached draft ordinance are requirements pursuant to the City's adopted 6th Cycle Housing Element. The existing Accessory Dwelling Unit Ordinance is out of compliance with State law which necessitates several revisions to the ordinance. The proposed ordinance incorporates all necessary changes to the city's local ADU regulations based on State law, and guidance documents published by the Housing and Community Development Department.

Daylight Plane-Removed
Daylight Plane means an inclined plane beginning at a stated height above grade at each side property line and extending perpendicularly from the side property line into the site at a stated upward angle relative to the horizontal.

The City's daylight plane provision is unenforceable as it is impossible to "protect" a daylight plane with a structure that is allowed four feet from the rear and side property lines. The provision of the daylight plane has been unenforceable since codified within the Los Altos Municipal Code and provides a false sense of hope to opposing parties for enforcement of such regulations.

Attachment #5 to the Agenda Report helps to explain the viewpoint of HCD and conflict of daylight plane regulations for any jurisdiction. The City of Palo Alto's Accessory Dwelling Unit (ADU) Ordinance is also out of compliance with State law as reflected in the Letter of Technical Assistance dated December 21, 2022. HCD accepts requests for technical assistance from local jurisdictions and requests for review of potential violations from any party through our online Housing Accountability Unit Portal. HCD makes enforcement letters and actions available to the public. A report of all letters issued is organized by jurisdiction, date, and subject matter (e.g., housing element, fair housing, Housing Accountability Act, etc.). Letters of Technical Assistance issued can be found here:
https://www.hcd.ca.gov/planning-and-community-development/accountability-and-enforcement

Voluntary Additional Setback-Removed
The voluntary additional setback is intended to reduce the privacy impacts to abutting property owners, and applicants are encouraged to voluntarily increase the setbacks. Although this section is not in conflict with any State laws, the inclusion of such language within the ordinance creates a false sense of hope of opposing parties, and results in City staff playing mediator of residents. As with any proposed development no proposal must build to the "minimum" setbacks, it is the

choice of the property owner to do such, the "Voluntary Additional Setback" is problematic and does not result in a best practice for ADU regulations within the City of Los Altos.

Public Notice of Proposed ADUs-Not Allowed

Pursuant to Government Code Section 65852.2(a)(6) "(6) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that **includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units,** except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section. "As articulated in the Government Code cited above a jurisdiction cannot require any provision or process that is discretionary in nature. Ministerial permits do not include notification to the public of a proposed permit.

Planning Commission Recommendation – March 21st, 2024:

On March 21, 2024, the Los Altos Planning Commission received a staff report, presentation, asked clarifying questions of staff, considered the proposed ordinance, and conducted in-depth discussion regarding the item. Modifications were recommended by the commission and have been integrated into the draft ordinance before the City Council. The modifications recommended by the Planning Commission are minor in nature but help to further clarify language within the Zoning Code for ease of application.

Housing Element Noncompliance:

The draft ordinance is a component and implementing ordinance of the city's adopted housing element. Should the City of Los Altos not proceed with the implementing actions discussed in this report the City will be vulnerable to penalties and consequences of housing element noncompliance. HCD is authorized to review any action or failure to act by a local government that determines is inconsistent with an adopted housing element or housing element law. This includes failure to implement program actions included in the housing element. HCD may revoke housing element compliance if the local government's actions do not comply with state law. Examples of penalties and consequence of housing element noncompliance:

- General Plan Inadequacy: the housing element is a mandatory element of the General Plan. When a jurisdiction's housing element is found to be out of compliance, its General Plan could be found inadequate, and therefore invalid. Local governments with an invalid General Plan can no longer make permitting decisions.
- Legal Action and Attorney Fees: local governments with noncompliant housing elements are vulnerable to litigation from housing rights' organization, developers, and HCD. If a

jurisdiction faces a court action stemming from its lack of compliance and either loses or settles the case, it often must pay substantial attorney fees to the plaintiff's attorneys in addition to the fees paid by its own attorneys. Potential consequences of lawsuits include mandatory compliance within 120 days, suspension of local control on building matters, and court approval of housing developments.

- Loss of Permitting Authority: courts have authority to take local government residential and nonresidential permit authority to bring the jurisdiction's General Plan and housing element into substantial compliance with State law. The court may suspend the locality's authority to issue building permits or grant zoning changes, variances, or subdivision map approvals – giving local governments a strong incentive to bring its housing element into compliance.
- Financial Penalties: court-issued judgement directing the jurisdiction to bring its housing element into substantial compliance with state housing element law. If a jurisdiction's housing element continues to be found out of compliance, courts can multiply financial penalties by a factor of six.
- Court Receivership: courts may appoint an agent with all powers necessary to remedy identified housing element deficiencies and bring the jurisdiction's housing element into substantial compliance with housing element law.

Petition for Writ of Mandate – California Housing Defense Fund, Yes In My Back Yard v. City of Cupertino.

So that the City Council and public are well-informed the City of Los Altos has included this information with this agenda item so that all circumstances are understood as housing law is rapidly evolving.

Early this year Californians for Homeownership, California Housing Defense Fund, and YIMBY Law had filed 12 lawsuits in Contra Costa, Santa Clara, Marin, and San Mateo County Superior Courts with the intention to file more in the coming weeks. The cities and counties sued include Belvedere, Burlingame, Cupertino, Daly City, Fairfax, Martinez, Novato, Palo Alto, Pinole, Pleasant Hill, Richmond, and Santa Clara County. Each municipality has been sued by one or two of the non-profits.

With the Bay Area's 109 cities and counties at widely varied stages in the process of Housing Element adoption and compliance, these twelve lawsuits mark the first round of what will likely be many rounds of judicial review for noncompliance with state housing law in the Bay Area. The initial lawsuits focus on cities with a long history of exclusionary housing practices, cities that adopted housing elements unlawfully, and localities that have made little progress in developing their draft housing elements. The organizations will continue to file suits in the coming weeks, prioritizing cities with the most egregious violations in each organization's judgment.

A Petition for Writ of Mandate in the State of California is used by superior courts, courts of appeal and the Supreme Court to command lower bodies (such as lower level of government agencies, in this case a city) to do or not do specific actions. In this case, a Writ of Mandate can result in the

city being directed to adopt a compliant housing element or other associated actions to comply with State law. A Writ of Mandate could also be petitioned for and direct a city to specifically implement programs that were included in their adopted housing element.

Given the current and ongoing legal climate around housing element law it is vital for the City of Los Altos to expeditiously implement the adopted 6th Cycle Housing Element 2023-2031. As noted above the potential legal risks associated with housing element noncompliance could be further enforced by similar legal actions.

December 21, 2023 – HCD Letter of Inquiry

On December 21, 2023, the Development Services Director received written correspondence from the Department of Housing and Community Development (HCD) Proactive Enforcement Unit of HCD. The Letter of Inquiry was regarding the Rezone Requirements of the City of Los Altos, and the status of the City's progress to complete such actions by January 31, 2024. As of November 28, 2023, the City of Los Altos has completed all necessary rezoning actions.

The Letter of Inquiry should serve as a cautionary warning to the City of Los Altos that all adopted programs must be implemented timely and completed with strict adherence to the strong commitments contained within the adopted Housing Element.

Countywide Compliance Report:

Of the sixteen (16) jurisdictions in Santa Clara County at the time of this report only seven (9) jurisdictions are in compliance with Housing Element Law as of March 31, 2024. The following table shows the status of all jurisdictions within Santa Clara County:

Jurisdiction:	Compliance Status:	Date:
Campbell	IN	5/30/2023
Cupertino	IN REVIEW	2/27/2024
Gilroy	IN	8/21/2023
Los Altos	IN	9/5/2023
Los Altos Hills	IN	5/30/2023
Los Gatos	IN REVIEW	3/18/2024
Milpitas	IN	5/17/2023
Monte Sereno	IN REVIEW	2/22/2024
Morgan Hill	IN	11/29/2023
Mountain View	IN	5/26/2023
Palo Alto	OUT	8/3/2023
San Jose	IN	11/30/2023
Santa Clara (City)	IN REVIEW	3/27/2024
Santa Clara (County)	OUT	12/18/2023
Saratoga	IN REVIEW	3/22/2024
Sunnyvale	IN	3/6/2024

ATTACHMENTS

1. Draft Ordinance
2. Appendix A
3. Existing Accessory Dwelling Unit (ADU) Ordinance
4. Accessory Dwelling Unit Handbook – California Department of Housing and Community Development (HCD)
5. HCD Letter of Technical Assistance – City of Palo Alto Accessory Dwelling Unit (ADU) Ordinance

ORDINANCE NO. 2024-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING CHAPTER 14.14 ACCESSORY DWELLING UNITS OF THE LOS ALTOS MUNICIPAL CODE TO IMPLEMENT PROGRAM 2.D AND PROGRAM 6.G OF THE SIXTH CYCLE HOUSING ELEMENT

WHEREAS, the City Council is empowered pursuant to Article XI, Section 7 of the California Constitution to make and enforce within the City all local, police, sanitary, and other ordinances, and regulations not in conflict with general laws; and

WHEREAS, on January 24, 2023, the City Council approved the City's Sixth Cycle Housing Element Update; and

WHEREAS, the City Council held a duly noticed public hearing on April 9, 2024, and April 23, 2024; and

WHEREAS, Program 2.D of the Housing Element Update calls for encouragement and streamlining accessory dwelling units within the City of Los Altos; and

WHEREAS, Program 2.D of the Housing Element Update requires the City of Los Altos to make any necessary amendments to be consistent with State law; and

WHEREAS, Program 6.G of the Housing Element Update calls for the support of housing mobility which includes the local support for the creation of all housing types; and

WHEREAS, Program 6.G of the Housing Element Update requires the City of Los Altos to allow more than one (at minimum two) Junior Accessory Dwelling Units (JADU); and

WHEREAS, having committed itself to implement Housing Element Update in its entirety, the City Council now desires to adopt this Ordinance; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended; and

NOW, THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. **AMENDMENT OF CHAPTER 14.14 OF THE MUNICIPAL CODE**. Chapter 14.14 of the Los Altos Municipal Code is hereby amended as set forth in Appendix A to this Ordinance, underline indicating addition, strikethrough indicating deletion.

SECTION 2. CONSTITUTIONALITY; AMBIGUITIES. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions hereof. Any ambiguities in the Los Altos Municipal Code created by this Ordinance shall be resolved by the Development Services Director, in their reasonable discretion, after consulting the City Attorney.

SECTION 3. PUBLICATION. This Ordinance shall be published as provided in Government Code Section 36933.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective upon the commencement of the thirty-first day following the adoption hereof.

The foregoing Ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on April 9, 2024, and was thereafter, at a regular meeting held on April 30, 2024, passed, and adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

____
Jonathan D. Weinberg, MAYOR

Attest:

____
Melissa Thurman, MMC, CITY CLERK

APPENDIX A
AMENDMENTS TO CHAPTER 14.14

APPENDIX A

Chapter 14.14 ACCESSORY DWELLING UNITS

14.14.010 Purpose and Intent.

The intent of this chapter is to provide for accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs), collectively known as an accessory dwelling regulations, on parcels zoned to allow single-family or multifamily dwelling residential use that include a proposed or existing dwelling. ADUs contribute needed housing to the City of Los Altos housing stock, enhance housing opportunities, and contribute to achieving the goals of the RHNA. An ADU is considered a residential use that is consistent with the existing general plan and zoning designations for the parcel. The ADU is not included in calculation of residential density for the purposes of determining general plan conformance. The ADU is not included in calculation of residential floor area ratio or lot coverage.

14.14.020 Definitions.

"Accessory dwelling unit" (or "ADU") means an attached or a detached residential dwelling unit that provides complete independent living facilities and is located on a parcel with a proposed or existing residential dwelling unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated. An accessory dwelling unit also includes the following:

A. An efficiency unit (minimum size unit shall be 150 square feet), as defined in Section 17958.1 of the Health and Safety Code.
B. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Accessory dwelling unit, attached" means a residential dwelling unit that is created as a result of internal conversion, addition, or combination thereof made to the primary dwelling, including attached garages, storage areas or similar uses.

"Accessory dwelling unit, detached." A detached accessory dwelling unit means an ADU that is not attached to the primary dwelling. Generally, a detached ADU is constructed as an independent structure that is located on the same parcel as the primary dwelling. However, a detached ADU may also include the conversion of an existing accessory structure that is located on the same parcel as the primary dwelling, but that is detached from the primary dwelling. In such a case, the detached ADU may be attached to another existing accessory structure.

"Existing," when referring to an existing principal dwelling, accessory structure, or other building or structure, means a building or structure erected prior to the date of adoption of the appropriate building code, or one for which a legal building permit has been issued. An unpermitted building or structure shall not be considered "existing" for the purposes of this chapter.

"Multi-family dwelling" means a group of dwelling units on one site that contains separate living units for two or more families that may have joined services or facilities or both.

"Junior accessory dwelling unit" (or "junior ADU" or "JADU") means a unit that is no more than five hundred (500) square feet in size, includes an efficiency kitchen consistent with building code standards, is contained entirely within the walls of a single-family residence and may

include separate sanitation facilities or may share sanitation facilities with the existing structure or unit.

"Living area" means the interior habitable area of a dwelling unit, including basements and attics, if defined as habitable by the California Residential Code (CRC) but does not include a garage or any accessory structure.

"Multi-family residential ADU" means an ADU designed for one family and allowed under Government Code Section 65852.2(e)(1)(C).

"Nonconforming zoning condition" means a physical improvement on a parcel that does not conform with current zoning standards.

"Primary dwelling" means, (i) in the case of a parcel occupied by an existing or proposed single-family residential use, the existing or proposed primary dwelling in connection with which an ADU is proposed to be constructed, or (ii) in the case of multi-family housing, the existing or proposed multi-family use in connection with which one or more ADUs allowed under this chapter are proposed to be constructed. As used in this definition, a "single-family residential use" means a single-family residential dwelling unit that is not attached to any other dwelling unit except for an ADU, and which is designed for one family and is surrounded by open space or yards.

"Passageway". The term passageway has the meaning defined by Government Code Section 65852.2, which states: "A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit."

"Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and/or are available to the public.

"Single family residential ADU" means an ADU designed for one family per 65852.2(a) of Government Code.

"Tandem parking" means that two or more automobiles are parked in any location on a parcel and lined up one behind the other.

14.14.030 Review Procedures.

An application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review, processes, or provisions. The review of any accessory dwelling application shall be approved or denied in 60 days or less. In the event of conflict within this code or within State law the more permissive regulation shall prevail.

14.14.040 Location Permitted.

A. ADUs may be permitted in the following zones: on parcels zoned for single-family, multi-family and mixed-use.

B. Nothing in this chapter shall be construed to authorize construction of new single-family residences in multi-family or mixed-use zones where such single-family residential use is not otherwise allowed.

14.14.050 Maximum Number of Units.

For a parcel with a proposed or existing residential dwelling or use, the following regulations shall establish the maximum number of accessory dwellings allowed:

A. One (1) attached accessory dwelling unit and one (1) detached accessory dwelling unit and two (2) junior accessory dwelling units per lot with a proposed or existing single-family dwelling.
B. At least one (1) accessory dwelling unit within an existing multi-family dwelling is allowed, or up to twenty-five (25) percent of the existing multi-family dwelling units are allowed an accessory dwelling unit. Multiple accessory dwelling units are allowed within the portions of existing multi-family dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with the applicable California Building Codes.
C. Not more than two (2) detached accessory dwelling units are allowed on a lot that has an existing or proposed multifamily dwelling.

14.14.060 Development Standards.

The following table summarizes design standards for all accessory dwellings allowed by this code.

	JADU	**Attached ADU**	**Detached ADU**
Maximum Size	500 sq. ft. created from the existing or proposed square footage of the primary dwelling.	1,200 sq. ft. but no more than 50% of the floor area of an existing or proposed primary dwelling (excluding basement area).	1,200 sq. ft. (including basement area).
Maximum Height	NA	The greater of 16 feet or the height of the underlying zoning district whichever is greater	18 feet
Minimum Front Setback	NA	Setback of underlying zoning district. (Footnote 1.)	Setback of underlying zoning district. (Footnote 1.)
Minimum Side Setback	NA	4 feet	4 feet
Minimum Rear Setback	NA	4 feet	4 feet
Maximum Floor Area Ratio	NA (Footnote 2.)	NA (Footnote 2.)	NA (Footnote 2.)
Maximum Lot Coverage	NA (Footnote 3.)	NA (Footnote 3.)	NA (Footnote 3.)
Building Separation	5 feet	5 feet	5 feet
Bathroom Facilities	Bathroom facilities shall be provided	Bathroom facilities shall be provided	Bathroom facilities shall be provided

	independently for the JADU or can have shared bathroom facilities with primary dwelling.	independently within the ADU.	independently within the ADU.
Entrance	Exterior; optional interior. (Footnote 4 and 5.)	Exterior. (Footnote 5.)	Exterior. (Footnote 5.)
Kitchen	Cooking appliances can include a hot plate, or counter-top cooking. A wall installed oven is not required.	Must include at least a sink, a refrigerator, and either a cooktop and an oven, or a range. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the ADU are also required.	
Owner Occupancy	Required.	Not required.	

Footnotes:

1. Any proposed accessory dwelling shall conform to the front setback of the underlying zone unless it is demonstrated through a site plan that a physical preclusion exists and hinders the development of an accessory dwelling as allowed by this code.
2. The square footage of any accessory dwelling shall not be included in the maximum floor area ratio of the parcel.
3. The building area of any accessory dwelling shall not be included in the maximum lot coverage of the parcel.
4. A junior accessory dwelling unit must have a separate entrance from the primary dwelling unit. An interior entry is required if the junior accessory dwelling unit does not include a bathroom.
5. Shall have a separate entrance from the primary dwelling unit provided as a side-hinged door per Section R311 of the California Residential Code.

14.14.070 Square Footage Allowance.

The following table provides the square footage allowances for all accessory dwelling unit types:

Unit Type	**Square Footage Limitations**
Efficiency Unit	The minimum size of an efficiency unit as defined by the Health and Safety Code shall be 150 square feet.
JADU	The maximum size of a JADU shall be five hundred (500) square feet created by the conversion of existing or proposed square footage of the principal dwelling unit including attached garages. Up to one hundred fifty (150) square feet can be added to the existing structure for purposes of ingress and egress to the JADU. The additional square footage created for the purposes of the JADU shall count towards the five hundred (500) square foot maximum.
Attached accessory dwelling unit	An attached single family residential ADU shall not exceed eight hundred fifty (850) square feet in floor area for one bedroom unit or one thousand two hundred (1,200) square feet with more than one bedroom. The total floor area for an attached ADU shall include any basement area and shall not be more than fifty (50) percent of the floor area of the existing or proposed principal residence. Notwithstanding this fifty (50) percent threshold requirement, an

	attached ADU of eight hundred fifty (850) square feet or smaller cannot be denied.
Detached accessory dwelling unit	A detached single-family residential ADU shall not exceed eight hundred fifty (850) square feet in floor area for one bedroom unit, or one thousand two hundred (1,200) square feet with more than one bedroom. For detached accessory dwelling units, any basement area is included in the square footage calculation for the ADU.

14.14.080 Allowed Projections.

A. Eaves. Roof eaves associated with an accessory dwelling shall be permitted to project into any required setback a maximum of two (2) feet.
B. Exterior Stairs. Exterior stairs associated with an accessory dwelling shall comply with accessory dwelling minimum setbacks. Any exterior stairs associated with an accessory dwelling shall be architecturally integrated into the exterior facade of the existing or proposed building.
C. Porches. Porches associated with an accessory dwelling shall comply with accessory dwelling minimum setbacks. Any porch associated with an accessory dwelling shall be architecturally integrated into the exterior facade of the existing or proposed building and allowed a maximum twenty (20) square feet.

14.14.090 General Provisions.

A. Short Term Rental. An ADU shall not be rented for periods less than thirty (30) days. Short term rentals are prohibited pursuant to Chapter 14.30 of the Los Altos Municipal Code.
B. Fire Sprinklers. The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.
C. Building Codes. Accessory dwellings shall conform to all applicable building code standards at the time of application.
D. Impact Fees. Any applicable fees established by the City of Los Altos shall be proportional based on unit size.
E. Connection Fees and Capacity Charges. Any connection fees and capacity charges that may be required must be assessed in compliance with the provisions of State Government Code Section 65852.2 and 65852.22, as amended from time to time.
F. Utilities. The accessory dwelling must provide water, sewer and electric utility connections that are in working condition upon its occupancy. The accessory dwelling may be served by the primary dwelling or may have separate utility meters. The accessory dwelling will not be considered a new residential use for the purpose of calculating connection fees or capacity charges for these utilities.
G. Nonconforming Conditions. Ministerial approval of a permit for creation of an accessory dwelling shall not be conditioned on the correction of pre-existing nonconforming zoning conditions.
H. Certificate of Occupancy. A certificate of occupancy for any accessory dwelling or junior accessory dwelling unit shall not be issued before the local agency issues a certificate of occupancy for the primary dwelling.
I. Tolling. If the applicant requests a delay in processing in writing, the 60-day review time shall be tolled for the period of the delay.

J. Historic Properties. A new accessory dwelling located on a historic property will be subject to ministerial review for compliance with the design review criteria set forth in Chapter 12.44 of the Los Altos Municipal Code and must be consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties. No review by the Historic Commission shall be required.
K. Exterior Lighting. Exterior lighting associated with an accessory dwelling shall not be permitted on the sides of the structure facing adjacent properties.
L. Addressing. Each accessory dwelling shall be assigned its own address, consistent with the requirements of the postal service and fire authority.
M. Deed Restriction. Prior to issuance of a building permit for a junior accessory dwelling unit, a deed restriction, in a form satisfactory to the city attorney, shall be recorded at the Santa Clara County Recorder s office and filed with the city. The deed restriction shall prohibit the sale of the junior accessory dwelling unit separate from the sale of the single-family dwelling, and one (1) of the dwellings on the lot must be occupied by at least one (1) legal owner of the property, unless the property is owned by a governmental agency, land trust or housing organization.

14.14.100 Parking Requirements.

One additional uncovered parking space of nine feet by eighteen feet (9 X 18) shall be required for a newly constructed single-family residential accessory dwelling, which may be located within the front setback, in tandem and in an existing driveway including within an interior side yard setback area, unless the Development Services Director determines such parking is not feasible due to specific site, topographical constraints or fire and life safety. Notwithstanding the above, a parking stall will not be required for a residential accessory dwelling that meets any of the following criteria:

1. The single-family residential accessory dwelling is created as a result of the conversion of existing area of the single-family residence or existing permitted residential accessory structure.
2. An existing garage, carport or parking structure is converted or demolished to accommodate a single-family residential accessory dwelling in the same location.
3. The single-family residential accessory dwelling is within one-half mile walking distance of a public transit station, such as a bus stop or train station.
4. The parcel is within an architecturally and historically significant historic district.
5. On-street parking permits are required in the area but not offered to the occupant of the residential accessory dwelling.
6. A vehicle share site is located within one block of the single-family residential accessory dwelling.

14.14.110 Mechanical Equipment for Accessory Dwellings.

Accessory dwellings shall conform to all provisions of Chapter 11.14 of the Los Altos Municipal Code unless otherwise specified. The following mechanical equipment regulations are specific to accessory dwellings:

A. Any mechanical equipment associated with an accessory dwelling shall locate proposed equipment on the interior sides of the accessory dwelling away from all property lines and outside of any required setback.
B. No roof mounted mechanical equipment shall be permitted.

14.14.120 ADU Rental Income Survey.

Each year the city will send out an annual ADU rental income survey to be released no later than September 1st of every calendar year. The property owner can voluntarily share the rental income for the unit. Pursuant to California Constitution Article I, Section 1 and Government Code Sections 6254(k) and 6255, to protect the privacy of property owners and renters and to encourage voluntary responsiveness, the aggregated data will be for the exclusive use of the city to meet its regional housing needs allocation (RHNA). The unredacted data will not be shared with outside agencies, persons or corporations unless specifically mandated by state or federal law.

Chapter 14.14 ACCESSORY DWELLING UNITS[1]

Sections:

14.14.010 Purpose and Intent.

The intent of this chapter is to provide for accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs), collectively known as an accessory dwelling, on parcels zoned to allow single-family or multifamily dwelling residential use that include a proposed or existing dwelling. ADUs contribute needed housing to the City of Los Altos housing stock, enhance housing opportunities, and contribute to achieving the goals of the RHNA. An ADU is considered a residential use that is consistent with the existing general plan and zoning designations for the parcel. The ADU is not included in calculation of residential density for the purposes of determining general plan conformance.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.020 Definitions.

As used in this section, the following terms mean:

"Accessory dwelling unit" (or "ADU") means an attached or a detached residential dwelling unit that provides complete independent living facilities and is located on a parcel with a proposed or existing residential dwelling unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Accessory dwelling unit, attached" means a residential dwelling unit that is created as a result of internal conversion, addition, or combination thereof made to the primary dwelling, including attached garages, storage areas or similar uses.

"Accessory dwelling unit, detached." A detached accessory dwelling unit means an ADU that is not attached to the primary dwelling. Generally, a detached ADU is constructed as an independent structure that is surrounded by open space and located on the same parcel as the primary dwelling. However, a detached ADU may also include the conversion of an existing accessory structure that is located on the same parcel as the primary dwelling, but that is detached from the primary dwelling. In such a case, the detached ADU may be attached to another existing accessory structure.

"Existing," when referring to an existing principal dwelling, accessory structure, or other building or structure, means a building or structure erected prior to the date of adoption of the appropriate building code, or

[1]Ord. No. 2020-473 , § 1, adopted Oct. 27, 2020, amended Ch. 14.14 by repealing and reenacting a new Ch. 14.14 to read as set out herein. Former Ch. 14.14, §§ 14.14.010—14.14.060 ppertained to second living units in R1 districts, and derived from prior code §§ 10-2.6301, 10-2.6303, 10-6304, 10-6305, 10-6306, 10-6307; and Ord. 03-253, § 1(part); and Ord. No. 2018-448 , § 4, adopted July 10, 2018.

one for which a legal building permit has been issued, as defined in Section 202 of the 2019 California Building Code. An unpermitted building or structure shall not be considered "existing" for purposes of this chapter.

"Multi-family housing" means a group of dwelling units on one site that contains separate living units for two or more families that may have joined services or facilities or both.

"Junior accessory dwelling unit" (or "junior ADU" or "JADU") means a unit that is no more than five hundred (500) square feet in size, includes an efficiency kitchen consistent with building code standards, is contained entirely within the walls of a single-family residence and may include separate sanitation facilities or may share sanitation facilities with the existing structure or unit.

"Living area" means the interior habitable area of a dwelling unit, including basements and attics, if defined as habitable by the California Residential Code (CRC) but does not include a garage or any accessory structure.

"Multi-family residential ADU" means an ADU designed for one family and allowed under Government Code Section 65852.2(e)(1)(C), as referenced in Section 14.14.070 of this chapter.

"Nonconforming zoning condition" means a physical improvement on a parcel that does not conform with current zoning standards.

"Primary dwelling" means, (i) in the case of a parcel occupied by an existing or proposed single-family residential use, the existing or proposed primary dwelling in connection with which an ADU is proposed to be constructed, or (ii) in the case of multi-family housing, the existing or proposed multi-family use in connection with which one or more ADUs allowed under this chapter are proposed to be constructed. As used in this definition, a "single-family residential use" means a single-family residential dwelling unit that is not attached to any other dwelling unit except for an ADU, and which is designed for one family and is surrounded by open space or yards.

"Passageway". The term passageway has the meaning defined by Government Code Section 65852.2, which states: "A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit."

"Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and/or are available to the public.

"Single family residential ADU" means an ADU designed for one family per 65852.2(a) of Government Code as referenced in Section 14.14.050 of this chapter.

"Tandem parking" means that two or more automobiles are parked in any location on a parcel and lined up behind one another.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.021 Standards for categories of single family residential ADUs.

The following table summarizes design standards for single family residential ADUs. If this summary of information conflicts with other sections of this chapter, those sections shall be binding. See Section 14.14.070 for design standards that apply to multi-family ADUs.

Design Standards	**JADU**	**Attached ADU (single-family)**	**Detached ADU (single-family)**
Maximum Size (see 14.14.025 for additional details)	500 sq. ft. created from the existing or proposed square footage of the primary dwelling.	1,200 sq. ft. but no more than 50% of the floor area of an existing or proposed primary	1,200 sq. ft. including basement area).

		dwelling (excluding basement area).	
Maximum Height	NA	The greater of 16 feet or the height of the underlying zoning district	16 feet
Minimum Side Setback	NA	4 feet (see exception identified within 14.14.050(f)(2))	4 feet
Minimum Rear Setback	NA	4 feet (see exception identified within 14.14.050(f)(2))	4 feet
Kitchen	Cooking appliances can include a hot plate, or counter-top cooking. A wall installed oven is not required.	Must include at least a sink, a refrigerator of no less than 10 cubic feet, and either a cooktop and an oven, or a range. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the ADU are also required.	
Parking Requirement	None	1 uncovered parking space required. See Section 14.14.050(i)(1-6) for the exceptions to this requirement.	
Owner Occupancy	Required	Not required	
Short Term Rentals	Prohibited	Prohibited	
Impact Fees	None	750 sq. ft. or less-no impact fees 751 sq. ft or more-impact fees are proportionate to principal dwelling.	
Utility Fees and Connections	None required.	The accessory dwelling may be served by the primary dwelling or may have separate utility meters.	

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.025 Square footage chart.

For clarity the following chart provides the square footage thresholds for the various forms of accessory dwelling units:

Unit Type	Square Footage Limitations
Efficiency Unit	The minimum size of an efficiency unit as defined by the Health and Safety Code shall be 150 square feet.
JADU	The maximum size of a JADU shall be five hundred (500) square feet created by the conversion of existing square footage of the principal dwelling unit. However, up to one hundred fifty (150) square feet can be added to the existing structure for purposes of ingress and egress to the JADU. The additional square footage shall count towards the five hundred (500) square foot maximum.
Attached accessory dwelling unit	An attached single family residential ADU shall not exceed eight hundred fifty (850) square feet in floor area for one bedroom unit or one thousand two hundred (1,200) square feet with more than one bedroom. The total floor area for an attached ADU shall exclude the basement areas, and shall

	not be more than fifty (50) percent of the floor area of the existing or proposed principal residence. Notwithstanding this fifty (50) percent threshold requirement, an attached ADU of eight hundred fifty (850) square feet or smaller cannot be denied. Additional square footage above eight hundred fifty (850) square feet shall not be allowed if the parcel exceeds, or, with the addition of the single-family residential ADU would exceed, the lot coverage and floor area ratio requirements for the applicable zoning district.
Detached accessory dwelling unit	(1) A detached single-family residential ADU shall not exceed eight hundred fifty (850) square feet in floor area for one bedroom unit, or one thousand two hundred (1,200) square feet with more than one bedroom. Additional square footage above eight hundred fifty (850) square feet shall not be allowed if the parcel exceeds, or, with the addition of the single-family residential ADU would exceed, the lot coverage and floor area ratio requirements for the applicable zoning district. For detached accessory dwelling units, garage area is excluded but basement areas are included in the square footage calculation for the ADU.
Accessory dwelling unit subject to objective design standards	An ADU between 851-1,200 square feet is subject to a zoning clearance review for objective design standards as identified in Chapter 14.06-Chapter 14.16-24. An ADU may exceed eight hundred fifty (850) square feet only if the parcel has not exceeded the floor area ratio allowed for the parcel per Chapter 14.06 of the Los Altos Municipal Code.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.030 Location permitted.

A. ADUs may be permitted in the following zones: on parcels zoned for multifamily or single-family dwellings.

B. Nothing in this chapter shall be construed to authorize construction of new single-family residences in multiple-family districts where such single-family residential use is not otherwise allowed.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.040 General requirements.

Notwithstanding any local ordinance regulating the issuance of variances or special use permits, or regulations adopted herein to the contrary, an application to construct an ADU shall be approved or denied ministerially, without discretionary review or hearing, within sixty (60) days from the date the city receives a completed planning application if there is an existing single-family or multifamily structure on the parcel. The following requirements apply to all accessory dwellings:

(a) An ADU shall not be rented for periods less than thirty (30) days. Short term rentals are prohibited pursuant to Chapter 14.30 of the Los Altos Municipal Code.

(b) Except as allowed by State law, an ADU shall not be sold or have its title transferred separately from the primary dwelling.

(c) Deed restriction. Prior to the issuance of the building permit for the ADU, the owner must record a deed restriction stating that the ADU may not be rented for periods less than thirty (30) days, and that it may not be transferred or sold separate from the primary dwelling.

(d) The installation of fire sprinklers shall not be required for an ADU if sprinklers are not required for the primary dwelling.

(e) ADUs are subject to the design standards and other zoning requirements of the zoning district in which the existing primary dwelling is located and must be built in accordance with the building code set forth in Title 12 of the Los Altos Municipal Code, except for those design, zoning, and building standards inconsistent with this chapter or with state requirements under California Government Code Section 65852.2.

(f) An ADU is not subject to residential accessory structure regulations.

(g) An ADU will not be subject to any charges and fees other than planning and building permit fees generally applicable to residential construction in the zone in which the parcel is located, except as otherwise provided herein.

(h) Any connection fees and capacity charges that may be required must be assessed in compliance with the provisions of State Government Code Section 65852.2 and 65852.22, as amended from time to time.

(i) The ADU must contain water, sewer and gas and/or electric utility connections that are in working condition upon its occupancy. The ADU may be served by the primary dwelling or may have separate utility meters. The accessory dwelling will not be considered a new residential use for the purpose of calculating connection fees or capacity charges for these utilities.

(j) An ADU must have an independent electrical sub-panel, water heating and space heating equipment within the unit or be readily accessible to the occupant on the exterior of the unit.

(k) Ministerial approval of a permit for creation of an ADU shall not be conditioned on the correction of pre-existing nonconforming zoning conditions.

(l) A certificate of occupancy for any ADU shall not be issued before the local agency issues a certificate of occupancy for the primary dwelling.

(m) If the applicant requests a delay in processing in writing, the 60-day review time shall be tolled for the period of the delay.

(n) A kitchen shall be provided for an ADU. A full kitchen requires habitable space used for preparation of food that contains at least a sink, a refrigerator of no less than ten (10) cubic feet, and either a cooktop and an oven, or a range. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the ADU are also required.

(o) A minimum sill height of five feet for windows on the second story within fifteen (15) feet of the property line that face out to the neighbors to mitigate privacy concerns shall be required.

(p). Except as otherwise required by state law, a single-family residential ADU either attached or detached from the main house must not encroach upon the required front yard area and shall have at least a four-foot setback from the side yard property line.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.050 Single-family residential ADU standards in single family residential zoning districts.

Notwithstanding any other provisions of this chapter to the contrary, a single-family residential ADU shall be permitted as a single-family residential use that shall comply with the following:

(a) Zoning. A single-family residential ADU shall be located on a parcel in a residential zoning district with an existing or proposed single-family residential dwelling unit.

(b) Number. For a parcel with a proposed or existing single-family dwelling, one attached or detached, new construction ADU shall be permitted. In the case of a detached ADU that does not exceed eight hundred fifty (850) square feet in size nor sixteen (16) feet in height, and that provides at least four foot side and rear setbacks, the detached ADU may be established in addition to a JADU, as set forth in Section 14.14.060.

(c) Relationship to primary dwelling. A single-family residential ADU may be within, attached to, or detached from the primary dwelling, provided that a single-family residential ADU contained within or attached to an existing primary dwelling shall have independent exterior access from the existing residence. A detached single-family residential ADU must be located at least five feet from the proposed or existing primary dwelling per Section 14.14.050(f)(3).

(d) Size.

(1) A detached single-family residential ADU shall not exceed eight hundred fifty (850) square feet in floor area for one bedroom unit, or one thousand two-hundred (1,200) square feet with more than one bedroom. Additional square footage above 850 square feet shall not be allowed if the parcel exceeds, or, with the addition of the single-family residential ADU would exceed, the lot coverage and floor area ratio requirements for the applicable zoning district. For detached accessory dwelling units, garage area is excluded but basement areas are included in the square footage calculation for the ADU. The garage area counts towards the floor area ratio for the property.

(2) An attached single family residential ADU shall not exceed eight hundred fifty (850) square feet in floor area for one bedroom unit or one thousand two hundred (1,200) square feet with more than one bedroom. The total floor area for an attached ADU shall exclude the basement areas and shall not be more than fifty (50) percent of the floor area of the existing or proposed principal residence. Notwithstanding this fifty (50) percent threshold requirement, an attached ADU of eight hundred fifty (850) square feet or smaller cannot be denied. Additional square footage above eight hundred fifty (850) square feet shall not be allowed if the parcel exceeds, or, with the addition of the single-family residential ADU would exceed, the lot coverage and floor area ratio requirements for the applicable zoning district.

(3) Internal attached ADU conversion. There is no size limitation on an ADU that is created exclusively by converting space within the existing primary dwelling or accessory structure. If a homeowner converts a portion of the primary dwelling for an attached ADU, nothing herein shall prevent the homeowner from replacing the square footage lost, up to eight hundred fifty (850) square feet above FAR limits, subject to the applicable design rules for the specific zoning district.

(e) Height.

(1) The maximum height for a detached single-family residential ADU shall be one-story and sixteen (16) feet.

(2) Attached single-family residential ADUs shall have a maximum height equal to the greater of (i) sixteen (16) feet, or (ii) the height limit established for the primary dwelling pursuant to applicable zoning.

(f) Setbacks. A single-family residential ADU is subject to the design criteria and zoning requirements of the district in which the existing single-family dwelling is located and as follows:

(1) An attached or detached single-family residential ADU must not encroach upon the required front yard area and shall have at least four foot setbacks at the rear and side yards per state law. Applicants are encouraged to comply voluntarily with the setbacks identified within Section 14.14.080 of ten (10) feet from the side and rear property lines to reduce privacy impacts. An ADU that provides such ten (10) foot setback shall be removed from daylight plane restrictions.

(2) A setback of four feet from the interior side and rear property lines shall be required for a newly constructed, detached or attached single-family residential ADU. No setback shall be required for converting an existing living area or accessory structure or a structure constructed in the same location, to the same dimensions and within the same footprint as an existing structure that is converted to an ADU or to a portion of an ADU. If the existing structure to be converted is four feet or less from the property line, a record of survey must be provided to the City for proof of location, setbacks, footprint, and property lines.

(3) The separation from the principal dwelling and any other accessory structure on the parcel shall be at least five feet unless implementation of this requirement would prohibit the construction of an eight hundred fifty (850) square foot detached ADU, in which case this requirement shall be waived provided the ADU complies with California Building Code (CBC) requirements for separation.

(g) Detached ADU daylight plane.

(1) No portion of an attached or detached ADU shall extend above or beyond a daylight plane as follows:

(2) The daylight plane starts at a height of eight feet at the property line and proceeds inward at a 6:12 slope. At ten (10) feet from the property line the structure can increase in height to sixteen (16) feet. All appurtenances, including chimneys, vents and antennas, shall be within the daylight plane. The daylight plane is not applied to a side or rear property line when it abuts a public alley or public street. However, the ADU daylight plane shall not be enforced if it prohibits the development of an eight hundred fifty (850) square foot ADU which is required by state law. If an applicant provides the voluntary setbacks identified in 14.14.080 of ten (10) feet for the side and rear property lines, the daylight plane provisions will not apply to the structural elements of the ADU.

(3) Daylight plane shall not be enforced for an ADU if the structure abuts a city street or alleyway in the rear of the parcel.

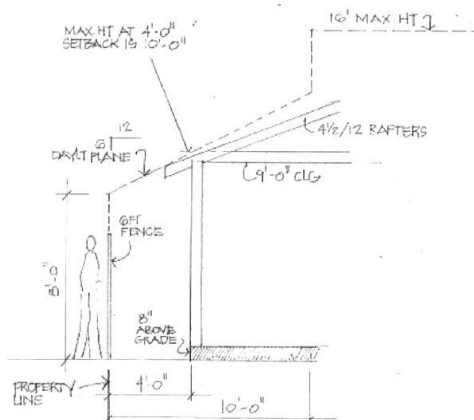

Figure 1-Standard Daylight Plane Diagram

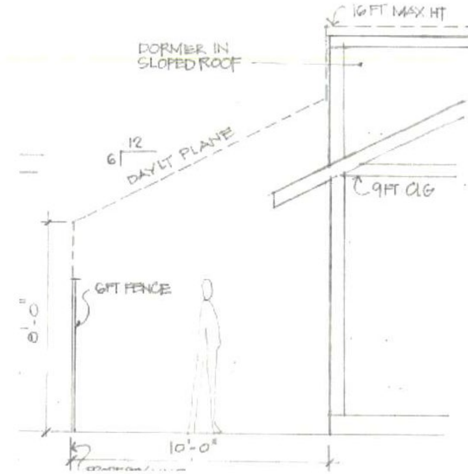

Figure 2-Voluntary Daylight Plane Diagram

(h) A single-family residential ADU must be built in accordance with the building code set forth in Title 12, except that any design, zoning, and building standards inconsistent with state requirements under California Government Code Section 65852.2 shall not apply.

(i) Parking. One additional uncovered parking space of nine feet by eighteen feet (9 X 18) shall be required for a newly constructed single-family residential ADU, which may be located within the front setback, in tandem and in an existing driveway including within an interior side yard setback area, unless a specific finding is made that such parking is not feasible due to specific site, topographical or fire and life safety. Notwithstanding the above, a parking stall will not be required for a residential ADU that meets any of the following criteria:

(1) The single-family residential ADU is created as a result of the conversion of existing area of the single-family residence or existing permitted residential accessory structure.

(2) An existing garage, carport or parking structure is converted or demolished to accommodate a single-family residential ADU in the same location.

(3) The single-family residential ADU is within one-half mile walking distance of a public transit station, such as a bus stop or train station.

(4) The parcel is within an architecturally and historically significant historic district.

(5) On-street parking permits are required in the area but not offered to the occupant of the residential ADU.

(6) A vehicle share site is located within one block of the single-family residential ADU.

(j) Design standards. Architectural review of attached or detached single-family residential ADUs over eight hundred fifty (850) square feet or greater will be limited to the following:

(1) Notwithstanding any other provision of this Code, a zoning clearance letter shall be issued for ADUs and shall be reviewed by the director of community development or their designee for compliance with objective design standards as identified within Chapter 14.06 (Single Family Zoning Districts) or Chapters 14.16-14.24 (Multi-Family Zoning Districts). The permit shall be considered ministerial without discretionary review within the time frames required by Section 65852.2 of the Government Code;

(2) In those instances where an applicant seeks permission to deviate from the standards, a variance shall be filed in accordance with Section 14.76.070.

(3) If the permit application to create an ADU or a JADU is submitted with a permit application to create a new single-family dwelling on the parcel, the city may delay acting on the permit application for the ADU or the JADU until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the ADU or JADU shall be considered without discretionary review or hearing. If the applicant requests a delay in writing, the 60-day time period shall be tolled for the period of the delay.

(4) The architectural features, window styles, roof slopes, exterior materials, colors, appearance, and design of the single-family residential ADU must be compatible with the existing single-family dwelling.

(5) Minimum sill height of five feet for windows on the second story within fifteen (15) feet of the property line that face out to the neighbors to try to mitigate privacy concerns shall be required.

(6) A new single-family residential ADU located within a historic site or neighborhood combining district will be subject to ministerial review for compliance with the design review criteria set forth in Chapter 12.44 of the Los Altos Municipal Code and must be consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties.

(7) Outside stairways serving a second story single-family residential ADU shall not be constructed on any building elevation facing a public street.

(8) No passageway will be required in conjunction with the construction of any single-family residential ADU.

(k) Streamlined approval of accessory dwelling units. Notwithstanding the restrictions above, a building permit application for a detached, single-family residential ADU within a residential or mixed-use zone must be approved ministerially if it is:

(1) Setback at least four feet from the interior side and rear property lines. Four feet setbacks are the maximum the City can recommend per state law, but applicants are encouraged to voluntarily comply with the setbacks identified within Section 14.14.080 of ten (10) feet from the side and rear property lines so as to reduce privacy impacts.

(2) No larger than eight hundred and fifty (850) square feet in floor area; and

(3) No taller than sixteen (16) feet in height.

(l) Annual rental data. On an annual basis property owner shall be requested to submit voluntarily rental data for use by the city for the Regional Housing Needs Allocation process.

(m) Mechanical equipment and air conditioning units for accessory dwelling units shall comply with the noise thresholds identified within Chapter 6.16 of the Noise Control Ordinance.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.060 JADU or efficiency unit standards.

Notwithstanding any other provisions in this article or of this chapter to the contrary, a JADU shall be permitted and comply with the following:

(a) The owner shall reside in the primary dwelling or the JADU

(b) One JADU may be permitted per residential parcel zoned for a single-family residential use, provided that the parcel has not more than one existing or proposed single-family residence. A single-family residential parcel may have both one JADU and one detached accessory dwelling unit.

(c) The unit must be constructed within the existing walls of a single-family dwelling except that an expansion of one hundred fifty (150) square feet beyond the existing physical dimensions of the primary dwelling may be permitted to accommodate required ingress and egress.

(d) The square footage of the unit shall be at least the minimum size (one hundred fifty (150) square feet) required for an efficiency unit, up to a maximum size of five hundred (500) square feet in floor area, and must include one Bedroom or studio sleeping area pursuant to Section 17958.1 of the Health and Safety Code.

(e) A separate entrance from the unit to the exterior of the residence, and an interior connection to the main living area may be provided. A second interior doorway for sound attenuation may also be permitted.

(g) At least an efficiency kitchen must be provided in the unit which shall include all the following:

(1) A cooking facility with appliances. Appliances can include hot plate, or counter-top cooking. A property owner does not need to have a wall installed oven or stove to qualify for a cooking appliance.

(2) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.

(h) The unit may include separate bathroom facilities or may share bathroom facilities contained within the primary dwelling.

(i) No separate utility connection, connection fee or capacity charge, or parking space shall be required for a JADU.

(j) A deed restriction shall be required for JADU and must include the following stipulations:

(1) prohibition on the sale of the JADU separate from the sale of the primary dwelling.

(2) If a JADU is rented, the unit shall not be rented for a period of less than thirty (30) consecutive days.

(3) Owner occupancy is required for the JADU or the main house, unless the owner is another government agency, land trust or housing organization as allowed by State Law.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.070 Multi-family ADU standards in multi-family zoning districts.

Notwithstanding any other provisions of this chapter to the contrary, multi-family ADUs shall be permitted and comply with the following:

(a) In addition to the types of ADUs allowed by this Section, one Single-Family Residential ADU may be constructed on a parcel with a multi-family housing development project.

(b) Portions of existing multi-family dwelling structures that are not used as livable space (including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages), may be converted for use as ADUs provided that total number of units must not exceed twenty-five (25) percent of the existing multi-family dwelling units or one unit, whichever is greater.

(c) An owner may also construct up to a maximum of two detached ADUs on a parcel that has an existing multifamily dwelling, subject to a height limit of sixteen (16) feet and at least four foot rear yard and side setbacks. If there are inconsistencies between this Chapter and other provisions of the Los Altos municipal code, this Chapter shall prevail over those other provisions.

(d) ADUs in multi-family zone districts shall comply with Government Code Section 65852.2.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.080 Voluntary Additional Setback.

For a detached accessory dwelling unit, the minimum setbacks shall be five feet from the primary dwelling, and four feet from the side and rear property lines. However, to reduce the privacy impacts to abutting property owners, applicants are encouraged to voluntarily increase the setbacks to be ten (10) feet from the rear and interior property lines. If an applicant provides the ten (10) foot rear and side property line setbacks, the daylight plane provisions will not be enforced for detached accessory dwelling units.

(Ord. No. 2020-473 , § 1, 10-27-2020)

14.14.090 ADU rental income survey.

Each year the city will send out an annual ADU rental income survey to be released no later than September 1st of every calendar year. The property owner can voluntarily share the rental income for the unit. Pursuant to California Constitution Article I, Section 1 and Government Code Sections 6254(k) and 6255, to protect the privacy of property owners and renters and to encourage voluntary responsiveness, the aggregated data will be for the exclusive use of the city to meet its regional housing needs allocation (RHNA). The unredacted data will not be shared with outside agencies, persons or corporations unless specifically mandated by state or federal law.

(Ord. No. 2020-473 , § 1, 10-27-2020)

CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

ACCESSORY DWELLING UNIT HANDBOOK

UPDATED JULY 2022

Table of Contents

Understanding Accessory Dwelling Units (ADUs) and Their Importance 3

Summary of Recent Changes to ADU Laws 5

Frequently Asked Questions 9

1. Legislative Intent 9
2. Zoning, Development and Other Standards 11
   - A) Zoning and Development Standards 11
   - B) Size Requirements 13
   - C) Parking Requirements 15
   - D) Setbacks 16
   - E) Height Requirements 17
   - F) Bedrooms 17
   - G) Impact Fees 18
   - H) Ministerially Approved ADUs and Junior ADUs (JADUs) Not Subject to Local Standards 19
   - I) Nonconforming Zoning Standards 22
   - J) Renter- and Owner-Occupancy 22
   - K) Fire Sprinkler Requirements 23
   - L) Solar System Requirements 23
3. JADUs 24
4. Manufactured Homes 25
5. Regional Housing Needs Allocation (RHNA) and the Housing Element 25
6. Homeowners Associations 26
7. ADU Ordinances and Local Agencies 27
8. Enforcement 28
9. Senate Bill (SB) 9 (2021) 28
10. Funding 29

Resources 30

Attachment 1: Statutory Changes (Strikeout/Italics and Underline) 31

Attachment 2: ADU Resources 55

Understanding Accessory Dwelling Units (ADUs) and Their Importance

California's housing production is not keeping pace with demand. In the last decade, fewer than half of the homes needed to keep up with the population growth were built. Additionally, new homes are often constructed away from job-rich areas. This lack of housing that meets people's needs is impacting affordability and causing average housing costs, particularly for renters in California, to rise significantly. As affordable housing becomes less accessible, people drive longer distances between housing they can afford and their workplace or pack themselves into smaller shared spaces, both of which reduce quality of life and produce negative environmental impacts.

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Beyond traditional construction, widening the range of housing types can increase the housing supply and help more low-income Californians thrive. Examples of some of these housing types are accessory dwelling units (ADUs – also referred to as second units, in-law units, casitas, or granny flats) and junior accessory dwelling units (JADUs).

What is an ADU?

An ADU is accessory to a primary residence and has complete independent living facilities for one or more persons and has a few variations:

- Detached: The unit is separated from the primary structure.
- Attached: The unit is attached to the primary structure.
- Converted Existing Space: Space (e.g., master bedroom, attached garage, storage area, or similaruse, or an accessory structure) on the lot of the primary residence that is converted into an independent living unit.
- JADU: A specific type of conversion of existing space that iscontained entirely within an existing or proposed single-family residence.

ADUs tend to be significantly less expensive to build than new detached single-family homes and offer benefits that address common development barriers, such as environmental quality. Because ADUs must be built on lots with existing or proposed housing, they do not require paying for new land or other costly infrastructure often required to build a new single-family home. Because they are contained inside existing or proposed single-family homes, JADUs require relatively modest renovations and are much more affordable to complete. ADUs are often built with cost-effective one- or two-story wood frames, which are also less expensive than other construction types. Additionally, prefabricated ADUs (e.g., manufactured housing and factory-built housing) can be directly purchased and can further reduce construction time and cost. ADUs can provide as much living space as apartments and condominiums and work well for couples, small families, friends, young people, and seniors.

Much of California's housing crisis comes from job-rich, high-opportunity areas where the total housing stock is insufficient to meet demand and exclusionary practices have limited housing choice and inclusion. Professionals and students often prefer living closer to jobs and amenities rather than spending hours commuting. Parents oftenwant better access to schools and do not necessarily require single-family homes to meet their housing needs. There is a shortage of affordable units, and the units that are available can be out of reach for many people. Homeowners can construct an ADU on their lot or convert an underutilized part of their home into a JADU. This flexibility benefits both renters and homeowners, who can receive extra monthly rental income while also contributing to meeting state housing production goals.

ADUs also give homeowners the flexibility to share independent living areas with family members and others, allowing seniors to age in place, even if they require more care, thus helping extended families stay together while maintaining privacy. ADUs provide housing for family members, students, the elderly, in-home health care providers, individuals with disabilities, and others at below market prices within existing neighborhoods.

New policies are making ADUs even more affordable to build, in part by limiting the development impact fees that local jurisdictions may charge for ADU construction and relaxing local zoning requirements. ADUs and JADUs can often be built at a fraction of the price of a new single-family home, and homeowners may use their existing lot to create additional housing. Often the rent generated from the ADU can pay for the entire project in a matter of years.

ADUs and JADUs are a flexible form of housing that can help Californians more easily access job-rich, high-opportunity areas. By design, ADUs are more affordable to renters and can provide additional income to homeowners. Local governments can encourage the development of ADUs and improve access to jobs, education, and services for many Californians.

Summary of Recent Changes to ADU Laws

In Government Code Section 65852.150, the California Legislature found and declared that, among other things, allowing ADUs in zones that allow single-family and multifamily uses provides additional rental housing and is an essential component in addressing California's housing needs. Over the years, State ADU Law has been revised to improve its effectiveness at creating more housing units. Changes to State ADU Law effective January 1, 2021, further reduce barriers, streamline approval processes, and expand capacity to accommodate the development of ADUs and JADUs. Within this context, the California Department of Housing and Community Development (HCD) developed – and continues to update – this handbook to assist local governments, homeowners, architects, and the general public in encouraging the development of ADUs. Below is a summary of recent legislation that amended State ADU Law. Please see Attachment 1 for the complete statutory changes.

AB 345 (Chapter 343, Statutes of 2021)

AB 345 (Chapter 343, Statutes of 2021) builds upon recent changes to State ADU Law, particularly Government Code sections 65852.2 and 65852.26, to require the allowance of the separate conveyance of ADUs from the primary dwelling in certain circumstances, provided they meet certain conditions, including those listed below, found in Government Code section 65852.26, subdivisions (a)(1-5):

- The ADU or primary dwelling was built or developed by a qualified nonprofit. (Gov. Code, § 65852.26, subd. (a).)
- There is an enforceable restriction on the use of the property between the low-income buyer and nonprofit that satisfies the requirements of Section 402.1 of the Revenue and Taxation Code. (Gov. Code, § 65852.26, subd. (a)(2).)
- The entire property is subject to the affordability restrictions to assure that the ADU and primary dwelling are preserved for owner-occupied, low-income housing for 45 years and are sold or resold only to a qualified buyer. (Gov. Code, § 65852.26, subd. (a)(3)(D).)
- The property is held in a recorded tenancy in common agreement that meets certain requirements. (Gov. Code, § 65852.26, subd. (a)(3).)

AB 345 does not apply to JADUs, and local ordinances must continue to prohibit JADUs from being sold separately from the primary residence.

AB 3182 (Chapter 198, Statutes of 2020)

AB 3182 (Chapter 198, Statutes of 2020) builds upon recent changes to State ADU Law, specifically Government Code section 65852.2 and Civil Code Sections 4740 and 4741, to further address barriers to the development and use of ADUs and JADUs.

This legislation, among other changes, addresses the following:

- States that an application for the creation of an ADU or JADU shall be *deemed approved* (not just subject to ministerial approval) if the local agency has not acted on the completed application within 60 days. (Gov. Code, § 65852.2, subd. (a)(3).)
- Requires ministerial approval of an application for a building permit within a residential or mixed-use zone to create one ADU *and* one JADU per lot (not one or the other), within the proposed or existing single-family dwelling, if certain conditions are met. (Gov. Code, § 65852.2, subd. (e)(1)(A).)
- Provides for the rental or leasing of a separate interest ADU or JADU in a common interest development, notwithstanding governing documents that otherwise appear to prohibit renting or leasing of a unit, and without regard to the date of the governing documents. (Civ. Code, § 4740, subd. (a), and Civ. Code, § 4741, subd. (a).)
- Provides that not less than 25 percent of the separate interest units within a common interest development be allowed as rental or leasable units. (Civ. Code, § 4740, subd. (b).)

AB 68 (Chapter 655, Statutes of 2019), AB 881 (Chapter 659, Statutes of 2019), and SB 13 (Chapter 653, Statutes of 2019)

AB 68 (Chapter 655, Statutes of 2019), AB 881 (Chapter 659, Statutes of 2019), and SB 13 (Chapter 653, Statutes of 2019) build upon recent changes to ADU and JADU Law, specifically Government Code sections 65852.2 and 65852.22, and further address barriers to the development of ADUs and JADUs.

This legislation, among other changes, addresses the following:

- Prohibits local agencies from including in development standards for ADUs requirements on minimum lot size. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i).)
- Clarifies that areas designated by local agencies for ADUs may be based on the adequacy of water and sewer services, as well as on impacts on traffic flow and public safety. (Gov. Code, § 65852.2, subd. (a)(1)(A).)
- Eliminates all owner-occupancy requirements by local agencies for ADUs approved between January 1,2020, and January 1, 2025. (Gov. Code, § 65852.2, subd. (a)(6).)
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1,000 square feet if the ADU contains more than one bedroom and

requires approval of a permit to build an ADU of up to 800 square feet. (Gov. Code, § 65852.2, subds. (c)(2)(B) and (C).)

- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement of off-street parking spaces cannot be required by the local agency. (Gov. Code, § 65852.2, subd. (a)(1)(D)(xi).)
- Reduces the maximum ADU and JADU application review time from 120 days to 60 days. (Gov. Code, § 65852.2, subd. (a)(3) and (b).)
- Clarifies that "public transit" includes various means of transportation that charge set fees, run on fixed routes, and are available to the public. (Gov. Code, § 65852.2, subd. (j)(9).)
- Establishes impact fee exemptions and limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees, and ADUs that are 750 square feet or larger may be charged impact fees but only such fees that are proportional in size (by square foot) to those for the primary dwelling unit. (Gov. Code, § 65852.2, subd. (f)(3).)
- Defines an "accessory structure" to mean a structure that is accessory and incidental to a dwelling on the same lot. (Gov. Code, § 65852.2, subd. (j)(2).)
- Authorizes HCD to notify the local agency if HCD finds that the local ADU ordinance is not in compliance with state law. (Gov. Code, § 65852.2, subd. (h)(2).)
- Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy its Regional Housing Needs Allocation (RHNA). (Gov. Code, §§ 65583.1, subd. (a), and 65852.2, subd. (m).)
- Permits JADUs even where a local agency has not adopted an ordinance expressly authorizing them. (Gov. Code, § 65852.2, subds. (b) and (e).)
- Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom and an interior entry into the single-family residence. (Gov. Code, § 65852.22, subd. (a)(4-5).)
- Requires, upon application and approval, a local agency to delay enforcement against a qualifying substandard ADU for five years to allow the owner to correct the violation, so long as the violation is not a health and safety issue, as determined by the enforcement agency. (Gov. Code, § 65852.2, subd. (n); Health & Safety Code, § 17980.12).)

AB 587 (Chapter 657, Statutes of 2019), AB 670 (Chapter 178, Statutes of 2019), and AB 671 (Chapter 658, Statutes of 2019)

In addition to the legislation listed above, AB 587 (Chapter 657, Statutes of 2019), AB 670 (Chapter 178, Statutes of 2019), and AB 671 (Chapter 658, Statutes of 2019) also have an

impact on State ADU Law, particularly through Health and Safety Code Section 17980.12. These pieces of legislation, among other changes, address the following:

- AB 587 creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separately from the primary dwelling by allowing deed-restricted sales to occur if the local agency adopts an ordinance. To qualify, the primary dwelling and the ADU are to be built by a qualified nonprofit corporation whose mission is to provide units to low-income households. (Gov. Code, § 65852.26).)
- AB 670 provides that covenants, conditions and restrictions that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable. (Civ. Code, § 4751).)
- AB 671 requires local agencies' housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low-, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction, and operation of affordable ADUs. (Gov. Code, § 65583; Health & Safety Code, § 50504.5).)

Frequently Asked Questions

1. Legislative Intent

- **Should a local ordinance encourage the development of ADUs?**

Yes. Pursuant to Government Code section 65852.150, the California Legislature found and declared that, among other things, California is facing a severe housing crisis and ADUs are a valuable form of housing that meets the needs of family members, students, the elderly, in-home health care providers, people with disabilities, and others. Therefore, ADUs are an essential component of California's housing supply.

State ADU Law and recent changes intend to address barriers, streamline approval, and expand potential capacity for ADUs, recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment, and implementation of local ADU ordinances must be carried out consistent with Government Code section 65852.150 and must not unduly constrain the creation of ADUs. Local governments adopting ADU ordinances should carefully weigh the adoption of zoning, development standards, and other provisions for impacts on the development of ADUs.

ADU Law is the statutory minimum requirement. Local governments may elect to go beyond this statutory minimum and further the creation of ADUs. (Gov. Code, § 65852.2, subd. (g).) Many local governments have embraced the importance of ADUs as an important part of their overall housing policies and have pursued innovative strategies.

Government Code section 65852.150:

(a) The Legislature finds and declares all of the following:

(1) Accessory dwelling units are a valuable form of housing in California.

(2) Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.

(3) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.

(4) Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.

(5) California faces a severe housing crisis.

(6) The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.

(7) Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.

(8) Accessory dwelling units are, therefore, an essential component of California's housing supply.

(b) It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.

2. Zoning, Development and Other Standards

A) Zoning and Development Standards

- **Are ADUs required jurisdiction-wide?**

  No. ADUs proposed pursuant to subdivision (e) of Government Code section 65852.2 must be permitted in any residential or mixed-use zone, which should be construed broadly to mean any zone where residential uses are permitted by-right or by conditional use. For other ADUs, local governments may, by ordinance, designate areas in zones where residential uses are permitted that will also permit ADUs. However, any limits on where ADUs are permitted may only be based on the adequacy of water and sewer service and on the impacts on traffic flow and public safety.

  Further, local governments may not preclude the creation of ADUs altogether, and any limitation should be accompanied by detailed findings of fact explaining why ADU limitations are required and consistent with these factors. If a lot with a residence has been rezoned to a use that does not allow for residential uses, that lot is no longer eligible to create an ADU. (Gov. Code § 65852.2 subd. (a)(1) and (e)(1).)

  Impacts on traffic flow should consider factors like lower car ownership rates for ADUs. Finally, local governments may develop alternative procedures, standards, or special conditions with mitigations for allowing ADUs in areas with potential health and safety concerns.

- **Can ADUs exceed general plan and zoning densities?**

  Yes. An ADU is an accessory use for the purposes of calculating allowable density under the general plan and zoning and does not count toward the allowable density. For example, if a zoning district allows one unit per 7,500 square feet, then an ADU would not be counted as an additional unit. Further, local governments could elect to allow more than one ADU on a lot, and ADUs are automatically a residential use deemed consistent with the general plan and zoning. (Gov. Code, § 65852.2, subd. (a)(1)(C).)

- **Can a local government apply design and development standards?**

  Yes. With an adopted ADU ordinance in compliance with State ADU Law, a local government may apply development and design standards that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources. **However, these standards should be objective to allow ministerial review of an ADU**. (Gov. Code, § 65852.2, subds. (a)(1)(B)(i) and (a)(4).)

  ADUs created under subdivision (e) of Government Code section 65852.2 shall not be subject to design and development standards except for those that are noted in the subdivision.

ADUs that do not meet objective and ministerial development and design standards may still be permitted through an ancillary discretionary process if the applicant chooses to pursue this route. In this scenario, the applicant assumes time and monetary costs associated with a discretionary approval process. Some jurisdictions with compliant ADU ordinances apply additional processes to further the creation of ADUs that do not otherwise comply with the minimum standards necessary for ministerial review. Importantly, these processes are intended to provide additional opportunities to create ADUs that would not otherwise be permitted, and a discretionary process may not be used to review ADUs that are fully compliant with State ADU Law.

- **Are ADUs permitted ministerially?**

  Yes. ADUs subject to State ADU Law must be considered, approved, and permitted ministerially, without discretionary action. Development and other decision-making standards must be sufficiently objective to allow for ministerial review. Examples include numeric and fixed standards such as heights or setbacks, or design standards such as colors or materials. Subjective standards require judgement and can be interpreted in multiple ways, such as privacy, compatibility with neighboring properties, or promoting harmony and balance in the community; subjective standards must not be imposed on ADU development. Further, ADUs must not be subject to hearing requirements or any ordinance regulating the issuance of variances or special use permits and must be considered ministerially. (Gov. Code § 65852.2, subds. (a)(3) and (a)(4).)

- **Is there a streamlined permitting process for ADU and JADU applications?**

  Yes. Whether or not a local agency has adopted an ordinance, applications to create an ADU or JADU shall be considered and approved ministerially within 60 days from the date the local agency receives a completed application. Although the allowed 60-day review period may be interrupted due to an applicant addressing comments generated by a local agency during the permitting process, additional 60-day time periods may not be required by the local agency for minor revisions to the application. (Gov. Code § 65852.2, subds. (a)(3) and (b).)

- **Can I create an ADU if I have multiple detached dwellings on a lot?**

  Yes. A lot where there are currently multiple detached single-family dwellings is eligible for creation of one ADU per lot by converting space within the proposed or existing space of a single-family dwelling or existing structure and by building a new detached ADU subject to certain development standards. (Gov. Code § 65852.2, subds. (e)(1)(A) and (B).)

- **What is considered a multifamily dwelling under ADU Law?**

  For the purposes of State ADU Law, a structure with two or more attached dwellings on

a single lot is considered a multifamily dwelling structure. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings for the purposes of State ADU Law.

- **Can I build an ADU in a historic district or if the primary residence is subject to historic preservation?**

  Yes. ADUs are allowed within a historic district and on lots where the primary residence is subject to historic preservation. State ADU Law allows for a local agency to impose standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources. However, these standards do not apply to ADUs proposed pursuant to Government Code section 65852.2, subdivision (e).

  As with non-historic resources, a jurisdiction may impose objective and ministerial standards that are sufficiently objective to be reviewed ministerially and do not unduly burden the creation of ADUs. Jurisdictions are encouraged to incorporate these standards into their ordinances and to submit these standards along with their ordinances to HCD. (Gov. Code, § 65852.2, subds. (a)(1)(B)(i) and (a)(5).)

B) Size Requirements

- **Can minimum lot size requirements be imposed on ADUs? What about lot coverage, floor area ratio, or open space requirements?**

  No. While local governments may impose certain development standards on ADUs, these standards shall not include minimum lot size requirements. Further, lot coverage requirements cannot preclude the creation of a statewide exemption ADU (see below). If lot coverage requirements do not allow such an ADU, an automatic exception or waiver should be given to appropriate development standards such as lot coverage, floor area, or open space requirements. Local governments may continue to enforce building and health and safety standards and may consider design, landscape, and other standards to facilitate compatibility. (Gov. Code, § 65852.2, subds. (c)(2)(C).)

What is a statewide exemption ADU?

A statewide exemption ADU, found in Government Code section 65852, subdivision (e), is an ADU of up to 800 square feet, 16 feet in height, as potentially limited by a local agency, and with four-foot side and rear yard setbacks. State ADU Law requires that no lot coverage, floor area ratio, open space, or minimum lot size will preclude the construction of a statewide exemption ADU. Further, State ADU Law allows the construction of a detached new construction statewide exemption ADU to be combined on the same lot with a JADU in a single-family residential zone. In addition, ADUs are allowed in any residential or mixed uses regardless of zoning and development standards imposed in an ordinance. See more discussion below.

- **Can minimum and maximum unit sizes be established for ADUs?**

  Yes. A local government may, by ordinance, establish minimum and maximum unit size requirements for both attached and detached ADUs; however, maximum unit size requirements must allow an ADU of at least 850 square feet, or 1,000 square feet for ADUs with more than one bedroom. For local agencies without an ADU ordinance, maximum unit sizes are 1,200 square feet for a new detached ADU and up to 50 percent of the floor area of the existing primary dwelling for an attached ADU (at least 800 square feet). Finally, the local agency must not establish by ordinance a minimum square footage requirement that prohibits the development of an efficiency unit as defined in Health and Safety Code section 17958.1.

  The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to unit size requirements. For example, an existing 3,000 square-foot barn converted to an ADU would not be subject to the local unit size requirements, regardless of whether a local government has an adopted ADU ordinance. Should an applicant want to expand an accessory structure to create an ADU beyond 150 square feet, this ADU would be subject to the size maximums outlined in State ADU Law or in the local agency's adopted ordinance.

- **Can a percentage of the primary dwelling be used to limit the maximum size of an ADU?**

  Yes. Local agencies may utilize a percentage (e.g., 50 percent) of the primary dwelling as a maximum unitsize for attached ADUs, but only if it does not restrict an ADU's size to less than the standard of at least 850 square feet (or at least 1,000 square feet for ADUs with more than one bedroom). Local agencies shall not, by ordinance, establish any other minimum or maximum unit sizes, including limits based on a percentage of the area of the primary dwelling, that precludes an 800 square-foot ADU. (Gov. Code, § 65852.2, subd. (c)(2)(C).) Local agencies utilizing percentages of the primary dwelling as maximum unit sizes can consider multi-pronged standards to help navigate these requirements (e.g., shall not exceed 50 percent of the dwelling or 1,000 square feet, whichever is greater).

- **Can maximum unit sizes exceed 1,200 square feet for ADUs?**

  Yes. Maximum unit sizes can exceed 1,200 square feet for ADUs through the adoption of a local ADU ordinance. State ADU Law does not limit the authority of local agencies to adopt *less* restrictive requirements for the creation of ADUs. (Gov. Code, § 65852.2, subd. (g).)

C) Parking Requirements

- **Are certain ADUs exempt from parking requirements?**

Yes. A local agency shall not impose ADU parking standards for any of the following ADUs, pursuant to Government Code section 65852.2, subdivisions (d)(1-5) and (j)(10):

(1) ADUs located within one-half mile walking distance of public transit.
(2) ADUs located within an architecturally and historically significant historic district.
(3) ADUs that are part of the proposed or existing primary residence or an accessory structure.
(4) When on-street parking permits are required but not offered to the occupant of the ADU.
(5) When there is a car share vehicle located within one block of the ADU.

Note: For the purposes of State ADU Law, a jurisdiction may use the designated areas where a car share vehicle may be accessed. Public transit is any location where an individual may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the general public. Walking distance is defined as the pedestrian shed to reach public transit. Additional parking requirements to avoid impacts to public access may be required in the Coastal Zone.

- **Can ADU parking requirements exceed one space per unit or bedroom?**

No. Parking requirements for ADUs shall not exceed one parking space per unit or bedroom, whichever isless. These spaces may be provided as tandem parking on a driveway. Guest parking spaces shall not berequired for ADUs under any circumstances. For certain ADUs, pursuant to Government Code section 65852.2, subdivisions (d)(1-5) and (j)(10), a local agency may not impose any ADU parking standards (see above question).

What is Tandem Parking?

Tandem parking means two or more automobiles that are parked on a driveway or in any other location ona lot, lined up behind one another. (Gov. Code, § 65852.2, subds. (a)(1)(D)(x)(I) and (j)(11).)

Local agencies may choose to eliminate or reduce parking requirements for ADUs, such as requiring zero or half a parking space per each ADU, to remove barriers to ADU construction and to facilitate development.

- **Is flexibility for siting ADU parking recommended?**

  Yes. Local agencies should be flexible when siting parking for ADUs. Off-street parking spaces for the ADU shall be permitted in setback areas in locations determined by the local agency or through tandem parking unless specific findings are made. Specific findings must be based on specific site or regional topographical or fire and life safety conditions.

  When a garage, carport, or covered parking structure is demolished in conjunction with the construction ofan ADU, or converted to an ADU, the local agency shall not require that those off-street parking spaces for the primary unit be replaced. (Gov. Code, § 65852.2, subd. (a)(1)(D)(xi).)

D) Setbacks

- **Can setbacks be required for ADUs?**

  Yes. A local agency may impose development standards, such as setbacks, for the creation of ADUs. However, setbacks should not unduly constrain the creation of ADUs and cannot be required for ADUs proposed pursuant to subdivision (e). Further, a setback of no more than four feet from the side and rear lot lines shall be required for an attached or detached ADU. (Gov. Code, § 65852.2, subd. (a)(1)(D)(vii).) Additional setback requirements may be required in the Coastal Zone if required by a local Coastal Program. Setback requirements must also comply with any recorded utility easements or other previously recorded setback restrictions.

  No setback shall be required for an ADU created within an existing living area or accessory structure or an ADU created in a new structure in the same location as an existing structure, while not exceeding the existing dimensions, including height. (Gov. Code, § 65852.2, subd. (a)(1)(D)(vii).)

  A local agency may also allow the expansion of a detached structure being converted into an ADU when the existing structure does not have four-foot rear and side setbacks. A local agency may also allow the expansion area of a detached structure being converted into an ADU to have no setbacks, or setbacks ofless than four feet, if the existing structure has no setbacks, or has setbacks of less than four feet, respectively. A local agency shall not require setbacks of more than four feet for the expanded area of a detached structure being converted into an ADU.

  A local agency may still apply front yard setbacks for ADUs, but front yard setbacks cannot preclude an ADU of at least 800 square feet and must not unduly constrain the creation of all types of ADUs. (Gov. Code, §65852.2, subd. (c) and (e).)

- **Is there a distance requirement between an ADU and other structures on the lot?**

  State ADU Law does not address the distance between an ADU and other structures on a lot. A local agency may impose development standards for the creation of ADUs, and ADUs shall comply with local building codes. However, development standards should not unduly constrain the creation of ADUs, cannot preclude a statewide exemption ADU (an ADU of up to 800 square feet, 16 feet in height, as potentially limited by a local agency, and with four-foot side and rear yard setbacks), and should not unduly constrain the creation of all types of ADUs, where feasible. (Gov. Code, § 65852.2, subd. (c).)

E) Height Requirements

- **Is there a limit on the height or number of stories of an ADU?**

  There is no height limit contained in State ADU Law, but local agencies may impose height limits provided that the limit is no less than 16 feet. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i).) For a local agency to impose a height limit, it must do so through the adoption of a compliant ADU ordinance.

F) Bedrooms

- **Can a limit on the number of bedrooms in an ADU be imposed?**

  A limit on the number of bedrooms could be construed as a discriminatory practice towards protected classes, such as familial status, and would be considered a constraint on the development of ADUs. Building code standards for minimum bedroom size still apply.

G) Impact Fees

- **Can impact fees be charged for an ADU less than 750 square feet?**

No. An ADU is exempt from incurring impact fees from local agencies, special districts, and water corporations if less than 750 square feet. If an ADU is 750 square feet or larger, impact fees shall be charged proportionately in relation to the square footage of the ADU to the square footage of the primary dwelling unit.

What is "Proportionately"?

"Proportionately" is some amount in relation to a total amount, in this case, an impact fee for a single-family dwelling. For example, a 2,000 square-foot primary dwelling with a proposed 1,000 square-foot ADU could result in 50 percent of the impact fee that would be charged for a new primary dwelling on the same site. In all cases, the impact fee for the ADU must be less than the primary dwelling. Otherwise, the fee is not calculated proportionately. When utilizing proportions, careful consideration should be given to the impacts on costs, feasibility, and, ultimately, the creation of ADUs. In the case of the example above,anything greater than 50 percent of the primary dwelling could be considered a constraint on the development of ADUs. A proportional fee shall not be greater than 100 percent, as when a proposed ADU exceeds the size of the existing primary dwelling.

For purposes of calculating the fees for an ADU on a lot with a multifamily dwelling, the proportionality shall be based on the average square footage of the units within that multifamily dwelling structure. For ADUs converting existing space with a 150 square-foot expansion, a total ADU square footage over 750square feet could trigger the proportionate fee requirement. (Gov. Code, § 65852.2, subd. (f)(3)(A).)

- **Can local agencies, special districts, or water corporations waive impact fees?**

Yes. Agencies can waive impact and any other fees for ADUs. Also, local agencies may use fee deferrals for applicants.

- **Can school districts charge impact fees?**

Yes. School districts are authorized to, but do not have to, levy impact fees for ADUs greater than 500 square feet pursuant to Section 17620 of the Education Code. ADUs less than 500 square feet are not subject to school impact fees. Local agencies are encouraged to coordinate with school districts to carefully weigh the importance of promoting ADUs, ensuring appropriate nexus studies and appropriate fees to facilitate construction or reconstruction of adequate school facilities.

- **What types of fees are considered impact fees?**

  Impact fees charged for the construction of ADUs must be determined in accordance with the Mitigation Fee Act and generally include any monetary exaction that is charged by a local agency in connection with the approval of an ADU, including impact fees, for the purpose of defraying all or a portion of the cost of public facilities relating to the ADU. A local agency, special district, or water corporation shall not consider ADUs as a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer services. However, these provisions do not apply to ADUs that are constructed concurrently with a new single-family home. (Gov. Code, §§ 65852.2, subd. (f), and 66000.)

- **Can I still be charged water and sewer connection fees?**

  ADUs converted from existing space and JADUs shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, unless constructed with a new single-family dwelling. The connection fee or capacity charge shall be proportionate to the burden of the proposed ADU, based on its square footage or plumbing fixtures as compared to the primary dwelling. ADU Law does not cover monthly charge fees. (Gov. Code, § 65852.2, subd. (f)(2).)

H) Ministerially Approved ADUs and Junior ADUs (JADUs) Not Subject to Local Standards

- **Are local agencies required to comply with Government Code section 65852.2, subdivision (e)?**

  Yes. All local agencies must comply with subdivision (e). This subdivision requires the ministerial approval of ADUs within a residential or mixed-use zone. The subdivision creates four categories of ADUs that should not be subject to other specified areas of State ADU Law, most notably zoning and development standards. For example, ADUs under this subdivision should not have to comply with lot coverage, setbacks, heights, and unit sizes. However, ADUs under this subdivision must meet the building code and health and safety requirements. The four categories of ADUs under subdivision (e)(1) are:

  (A) One ADU and one JADU are permitted per lot within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure that meets specified requirements such as exterior access and setbacks for fire and safety.

  (B) One detached new construction ADU that does not exceed four-foot side and rear yard setbacks. This ADU may be combined on the same lot with a JADU, and may be required to meet a maximum unit size requirement of 800 square feet and a height limitation of 16 feet.

(C) Multiple ADUs within the portions of multifamily structures that are not used as livable space. Local agencies must allow at least one of these types of ADUs and up to 25 percent of the existing multifamily structures.
(D) Up to two detached ADUs on a lot that has existing multifamily dwellings that are subject to height limits of 16 feet and four-foot rear and side yard setbacks.

The above four categories may be combined. For example, local governments must allow (A) and (B) together or (C) and (D) together.

The most common ADU that can be created under subdivision (e) is a conversion of proposed or existing space of a single-family dwelling or accessory structure into an ADU, without any prescribed size limitations, height, setback, lot coverage, architectural review, landscape, or other development standards.This would enable the conversion of an accessory structure, such as a 2,000 square-foot garage, to an ADU without any additional requirements other than compliance with building standards for dwellings.

These types of ADUs are also eligible for a 150 square-foot expansion (see discussion below).

ADUs created under subdivision (e) shall not be required to provide parking if the ADU qualifies for one of the five exemptions listed under subdivision (d). Moreover, these units shall not, as a condition for ministerial approval, be required to correct any existing or created nonconformity. Subdivision (e) ADUs shall be required to be rented for terms longer than 30 days and only require fire sprinklers if fire sprinklers are required for the primary residence. These ADUs shall not be counted as units when calculating density for the general plan and are not subject to owner occupancy.

- **How many ADUs are allowed on a multifamily site under subdivision (e)?**

Under subdivision (e), an applicant may apply to build up to two detached ADUs and at least one interior ADU up to 25 percent of the number of units in the proposed or existing multifamily dwelling. All interior ADUs, however, must be converted from non-livable space, which is not a requirement under subdivision (a) for ADUs associated with single-family sites. It should also be noted that if there is no existing non-livable space within a multifamily structure, an applicant would not be able to build an interior ADU under subdivision (e). Attached ADUs are also prohibited under this subdivision.

By contrast, under subdivision (a), an applicant may choose to build one attached, detached, or conversion ADU on a site with a proposed or existing multifamily dwelling, with local objective development standards applied in the same manner as they would be applied to an ADU proposed on a single-family site under subdivision (a). JADUs can only be constructed on a site with a proposed or existing single-family dwelling; however, a JADU cannot be constructed on a multifamily site concurrently with an ADU under subdivision (a).

- **Can I convert my accessory structure into an ADU?**

  Yes. The conversion of garages, sheds, barns, and other existing accessory structures, either attached or detached from the primary dwelling, into ADUs is permitted and promoted through State ADU Law.

  These conversions of accessory structures are not subject to any additional development standards, such as unit size, height, and lot coverage requirements, and shall be from existing space that can be made safe under building and safety codes. A local agency should not set limits based on when the structure was created, and the structure must meet standards for health and safety.

  Additionally, the two ADUs allowed on each multifamily site under subdivision (e) may be converted from existing detached structures on the site. Existing, detached accessory structures on a lot with an existing multifamily dwelling that are converted to ADUs cannot be required to be modified to correct for a non-conforming use. Both structures must be accessory structures detached from the primary residence, and because they are conversions of existing structures, these ADUs would not have to comply with the four-foot setback requirements under subdivision (e) if the existing structures are closer than four feet to the property line. This would also mean that the 16-foot height limitation would not apply if the existing structure were taller than 16 feet. Conversion ADUs in this scenario would not be subject to any square footage restrictions as long as they are built within the footprint of the previous structure.

- **Can an ADU created by converting existing space be expanded?**

  Yes. An ADU created within the existing or proposed space of a single-family dwelling or accessory structure can be expanded beyond the physical dimensions of the structure. Per State ADU Law, only an ADU created within an existing accessory structure may be expanded up to 150 square feet without application of local development standards, but this expansion shall be limited to accommodating ingress and egress. An ADU created within the space of an existing or proposed single-family dwelling is subject to local development standards. An example of where this expansion could be applicable is for the creation of a staircase to reach a second story ADU. These types of ADUs shall conform to setbacks sufficient for fire and safety.

  A local agency may allow for an expansion beyond 150 square feet, though the ADU would have to comply with the size maximums as per State ADU Law or per a local agency's adopted ordinance. (Gov. Code, § 65852.2, subd. (e)(1)(i).)

  As a JADU is limited to being created within the walls of a primary residence and not an accessory structure, this expansion of up to 150 square feet does not pertain to JADUs.

- **Can an ADU be constructed in the non-livable spaces of the non-residential portions of a mixed-use development?**

  No. The non-livable space used to create an ADU or ADUs under Government Code section 65852.2, subdivision (e)(1)(C), should be limited to the residential areas of a mixed-use development, and not the areas used for commercial or other activities. The parking and storage areas for these non-residential uses would also be excluded from potential ADU development.

I) Nonconforming Zoning Standards

- **Does the creation of an ADU require the applicant to carry out public improvements?**

  No physical improvements shall be required for the creation or conversion of an ADU. Any requirement to carry out public improvements is beyond what is required for the creation of an ADU, as per State ADU Law. For example, an applicant shall not be required to improve sidewalks or carry out street or access improvements to create an ADU. Additionally, as a condition for ministerial approval of an ADU, anapplicant shall not be required to correct nonconforming zoning conditions. (Gov. Code, § 65852.2, subd. (e)(2).)

J) Renter- and Owner-Occupancy

- **Are rental terms allowed?**

  Yes. Local agencies may require that the property be used for rentals of terms longer than 30 days. ADUs permitted ministerially, under subdivision (e), shall be rented for terms longer than 30 days. (Gov. Code, §65852.2, subds. (a)(6) and (e)(4).)

- **Are there any owner-occupancy requirements for ADUs?**

  No. Prior to recent legislation, ADU laws allowed local agencies to elect whether the primary dwelling orADU was required to be occupied by an owner. The updates to State ADU Law removed the owner-occupancy requirement for newly created ADUs effective January 1, 2020. The new owner-occupancy exclusion is set to expire on December 31, 2024; however, local agencies may not retroactively require owner-occupancy for ADUs permitted between January 1, 2020, and December 31, 2024.

  However, should a property have both an ADU and JADU, JADU law requires owner-occupancy of either the newly created JADU or the single-family residence. Under this specific circumstance, a lot with an ADU would be subject to owner-occupancy requirements. (Gov. Code, § 65852.22, subd. (a)(2).)

K) Fire Sprinkler Requirements

- **Can fire sprinklers be required for ADUs?**

  Installation of fire sprinklers may not be required in ADUs (attached, detached, or conversion) where sprinklers were not required by building codes for the existing primary residence. For example, a detached single-family home designed and constructed decades ago would not have been required to have fire sprinklers installed under the applicable building code at the time. However, if the same primary dwelling recently underwent significant alteration and is now required to have fire sprinklers, any ADU created after that alteration must be provided with fire sprinklers. (Gov. Code, § 65852.2, subds. (a)(1)(D)(xii) and (e)(3).)

  Please note, for ADUs created on lots with multifamily residential structures, the entire residential structure shall serve as the "primary residence" for the purposes of this analysis. Therefore, if the multifamily structure is served by fire sprinklers, the ADU can be required to install fire sprinklers.

  For additional guidance on ADUs and fire sprinkler system requirements, please consult the Office of the State Fire Marshal.

L) Solar System Requirements

- **Are solar systems required for newly constructed ADUs?**

  Yes, newly constructed ADUs are subject to the California Energy Code requirement (excluding manufactured homes) to provide solar systems if the unit(s) is a newly constructed, non-manufactured, detached ADU (though some exceptions apply). Per the California Energy Commission (CEC), the solar systems can be installed on the ADU or on the primary dwelling unit. ADUs that are constructed within existing space, or as an addition to existing homes, including detached additions where an existing detached building is converted from non-residential to residential space, are not subject to the Energy Code requirement to provide solar systems.

  Please refer to the CEC on this matter. For more information, see the CEC's website at www.energy.ca.gov. You may email your questions to title24@energy.ca.gov, or contact the Energy Standards Hotline at 800-772-3300. CEC memos can also be found on HCD's website at https://www.hcd.ca.gov/policy-research/AccessoryDwellingUnits.shtml.

  See HCD's Information Bulletin 2020-10 for information on the applicability of California solar requirements to manufactured housing.

3. JADUs – Government Code Section 65852.22

- **What is a JADU?**

  A "junior accessory dwelling unit" or JADU is a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure. (Gov. Code, § 65852.22, subd. (h)(1).)

- **Are two JADUs allowed on a lot?**

  No. A JADU may be created on a lot zoned for single-family residences with one primary dwelling. The JADU may be created within the walls of the proposed or existing single-family residence, including attached garages, as attached garages are considered within the walls of the existing single-family residence. Please note that JADUs created in the attached garage are not subject to the same parking protections as ADUs and could be required by the local agency to provide replacement parking.

  JADUs are limited to one per residential lot with a single-family residence. Lots with multiple detached single-family dwellings are not eligible to have JADUs. (Gov. Code, § 65852.22, subd. (a)(1).)

- **Are JADUs required to have an interior connection to the primary dwelling?**

  No. Although JADUs are required to be within the walls of the primary dwelling, they are not required to have an interior connection to the primary dwelling. That said, JADUs may share a significant interior connection to the primary dwelling, as they are allowed to share bathroom facilities with the primary dwelling.

- **Are JADUs allowed in detached accessory structures?**

  No, JADUs are not allowed in accessory structures. The creation of a JADU must be within the single- family residence. As noted above, attached garages are eligible for JADU creation. (Gov. Code, § 65852.22, subds. (a)(1) and (a)(4).)

- **Are JADUs allowed to be increased up to 150 square feet when created within an existingstructure?**

  No. Only ADUs are allowed to add up to 150 square feet "beyond the physical dimensions of the existing accessory structure" to provide for ingress. (Gov. Code, § 65852.2, subd. (e)(1)(A)(i).)

  This provision extends only to ADUs and excludes JADUs. A JADU is required to be created within the single-family residence.

- **Are there any owner-occupancy requirements for JADUs?**

  Yes. The owner must reside in either the remaining portion of the primary residence or in the newly created JADU. (Gov. Code, § 65852.22, subd. (a)(2).)

4. Manufactured Homes

- **Are manufactured homes considered to be an ADU?**

  Yes. An ADU is any residential dwelling unit with independent living facilities and permanent provisions for living,sleeping, eating, cooking and sanitation. An ADU includes a manufactured home. (Health & Saf. Code, § 18007.)

> Health and Safety Code section 18007, subdivision (a): **"Manufactured home,"** for the purposesof this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

5. Regional Housing Needs Allocation (RHNA) and the Housing Element

- **Do ADUs and JADUs count toward a local agency's RHNA?**

  Yes. Pursuant to Government Code section 65852.2 subdivision (m), and section 65583.1, ADUs and JADUs may be utilized towards the RHNA and Housing Element Annual Progress Report (APR) pursuant to Government Code section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit. Generally, an ADU, and a JADU with shared sanitation facilities, and any other unit that meets the census definition and is reported to DOF as part of the DOF annual City and County Housing Unit Change Survey can be credited toward the RHNA based on the appropriate income level. The housing element or APR must include a reasonable methodology to demonstrate the level of affordability. Local governments can track actual or anticipated affordability to assure ADUs and JADUs are

counted towards the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit or other local applications. For more information, please contact HousingElements@hcd.ca.gov.

- **What analysis is required to count ADUs toward the RHNA in the housing element?**

  To count ADUs towards the RHNA in the housing element, local agencies must generally use a three-part approach: (1) development trends, (2) anticipated affordability, and (3) resources and incentives. Development trends must consider ADUs permitted in the prior planning period and may also consider more recent trends. Anticipated affordability can use a variety of methods to estimate the affordability by income group. Common approaches include rent surveys of ADUs, using rent surveys and square footage assumptions and data available through the APR pursuant to Government Code section 65400. Resources and incentives include policies and programs to encourage ADUs, such as prototype plans, fee waivers, expedited procedures, and affordability monitoring programs.

- **Are ADUs required to be addressed in the housing element?**

  Yes. The housing element must include a description of zoning available to permit ADUs, including development standards and analysis of potential constraints on the development of ADUs. The element must include programs as appropriate to address identified constraints. In addition, housing elements must include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low-, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction, and operation of affordable ADUs. (Gov. Code, § 65583 and Health & Saf. Code, § 50504.5.) This list is available on HCD's ADU webpage.

6. Homeowners Associations

- **Can my local Homeowners Association (HOA) prohibit the construction of an ADU orJADU?**

  No. Assembly Bill 670 (2019) and AB 3182 (2020) amended Section 4751, 4740, and 4741 of the Civil Code to preclude common interest developments from prohibiting or unreasonably restricting the construction or use, including the renting or leasing of, an ADU on a lot zoned for single-family residential use. Covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on such lots are void and unenforceable or may be liable for actual damages and payment of a civil penalty. Applicants who encounter issues with creating ADUs or JADUs within CC&Rs are encouraged to reach out to HCD for additional guidance. Refer to Section 4100 of the Civil Code for the meaning of a common interest development.

7. ADU Ordinances and Local Agencies

- **Are ADU ordinances existing prior to new 2020 laws null and void?**

Maybe. ADU ordinances existing prior to the new 2020 laws, as well as newly adopted ordinances, are null and void when they conflict with State ADU Law. Subdivision (a)(4) of Government Code section 65852.2 states that an ordinance that fails to meet the requirements of subdivision (a) shall be null and void, and the local agency shall apply the state standards until a compliant ordinance is adopted. See the question on Enforcement below for more detail.

- **Do local agencies have to adopt an ADU ordinance?**

No. Local governments may choose not to adopt an ADU ordinance. Should a local government choose not to adopt an ADU ordinance, any proposed ADU development would be subject only to standards set in State ADU Law. If a local agency adopts an ADU ordinance, it may impose zoning, development, design, and other standards in compliance with State ADU Law.

- **Is a local government required to send an ADU ordinance to HCD?**

Yes. A local government, upon adoption of an ADU ordinance, must submit a copy of the adopted ordinance to HCD within 60 days after adoption. After the adoption of an ordinance, HCD may review and submit written findings to the local agency as to whether the ordinance complies with State ADU Law. (Gov. Code, § 65852.2, subd. (h)(1).)

Local governments may also submit a draft ADU ordinance for preliminary review by HCD. HCD recommends that local agencies do so, as this provides local agencies the opportunity to receive feedback on their ordinance and helps to ensure compliance with State ADU Law prior to adoption.

- **Are charter cities and counties subject to the new ADU laws?**

Yes. State ADU Law applies to a local agency, which is defined as a city, county, or city and county, whether general law or chartered. (Gov. Code, § 65852.2, subd. (j)(5)).

Further, pursuant to Chapter 659, Statutes of 2019 (AB 881), the Legislature found and declared State ADU Law addresses *"…a matter of statewide concern rather than a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution*" and concluded that State ADU Law applies to all cities, including charter cities.

- **Do the new ADU laws apply to jurisdictions located in the California Coastal Zone?**

Yes. ADU laws apply to jurisdictions in the California Coastal Zone, but do not

necessarily alter or lessen the effect or application of Coastal Act resource protection policies. (Gov. Code, § 65852.22, subd. (l).) Coastal localities should seek to harmonize the goals of protecting coastal resources and addressing housing needs of Californians. For example, where appropriate, localities should amend Local Coastal Programs for California Coastal Commission review to comply with the California Coastal Act and new ADU laws. For more information, see the California Coastal Commission 2020 Memo and reach out to thelocality's local Coastal Commission district office.

- **Do the new ADU laws apply to areas governed by the Tahoe Regional Planning Agency (TRPA)?**

  Possibly. The TRPA was formed through a bistate compact between California and Nevada. Under the compact, TRPA has authority to adopt ordinances, rules, and regulations, and those ordinances, rules, and regulations are considered federal law. Under this authority, TRPA has adopted certain restrictions that effectively limit lot coverage on developed land. State ADU Law may conflict to a degree with the TRPA standards, and to the extent that it does, the TRPA law likely preempts or overrides State ADU Law.

8. Enforcement

- **Does HCD have enforcement authority over ADU ordinances?**

  Yes. Pursuant to Government Code section 65852.2, subdivision (h), local agencies are required to submit a copy of newly adopted ADU ordinances within 60 days of adoption. HCD may thereafter provide written findings to the local agency as to whether the ordinance complies with State ADU Law. If HCD finds that the local agency's ADU ordinance does not comply with State ADU Law, HCD must provide a reasonable time, no longer than 30 days, for the local agency to respond. The local agency shall either amend its ordinance in accordance with HCD's written findings or adopt the ordinance without changes but include findings in its resolution explaining why the ordinance complies with State ADU Law despite HCD's findings. If the local agency does not amend its ordinance in accordance with HCD's findings or adopt a resolution explaining why the ordinance is compliant, HCD shall notify the local agency that it is in violation of State ADU Law. HCD may also notify the Attorney General of the local agency's violation. While an ordinance is non-compliant, the local agency shall apply state standards.

  In addition, HCD may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify State ADU Law.

9. Senate Bill (SB) 9 (2021)

- **Does SB 9 have any impact on ADUs?**

  SB 9 (Gov. Code Sections 66452.6, 65852.21 and 66411.7) contains some overlaps with State ADU Law, but only on a relatively small number of topics. Please note that although HCD does not administer or enforce SB 9, violations of SB 9 may concurrently violate other housing laws that HCD does enforce, including, but not limited to, State ADU Law and State Housing Element Law. As local jurisdictions implement SB 9, including adopting local

ordinances, it is important to keep these and other housing laws in mind. For details regarding SB 9, please see HCD's SB 9 Factsheet.

10. Funding

- **Is there financial assistance or funding available for ADUs?**
  Effective September 20, 2021, the California Housing Finance Agency's (CalHFA) ADU Grant Program provides up to $40,000 in assistance to reimburse qualifying homeowners for predevelopment costs necessary to build and occupy an ADU or JADU on a lot with a single-family dwelling unit. The ADU Grant Program is intended to create more housing units in California by providing a grant to reimburse qualifying homeowners for predevelopment costs. Predevelopment costs include, but are not limited to, architectural designs, permits, soil tests, impact fees, property surveys, and energy reports. For additional information or questions, please see CalHFA's ADU Grant Program at https://www.calhfa.ca.gov/adu or contact the CalHFA Single Family Lending Division at (916) 326-8033 or SFLending@calhfa.ca.gov.

Resources

Attachment 1: Statutory Changes (Strikeout/Italics and Underline)

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2

Combined changes from AB 345, AB 3182, AB 881, AB 68, and SB 13 (Changes noted in strikeout, underline/italics)

Effective January 1, 2022, Section 65852.2 of the Government Code is amended to read:

65852.2.

(a)(1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B)(i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of ~~Historic~~ *Historical* Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) ~~The~~ *Except as provided in Section 65852.26, the* accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is

converted to an accessory dwelling unitor to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.
(viii) Local building code requirements that apply to detached dwellings, as appropriate.
(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasiblebased upon specific site or regional topographical or fire and life safety conditions.
(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).
(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of anaccessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.
(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primaryresidence.
(1) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limitresidential growth.
(2) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on theapplication to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date thelocal agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. *If the local agency hasnot acted upon the completed application within 60 days, the application shall be deemed approved.* A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.
(3) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an

ordinance that complies with this section.
(4) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.
(5) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.
(6) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.
(7) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.
(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.
(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:
(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.
(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:
(i) 850 square feet.
(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.
(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local

development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit ~~or~~ *and* one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory

dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, ifthe percolation test has been recertified, within the last 10 years.
(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.
(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.
(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the developmentof an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.
(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision
(b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include anyconnection fee or capacity charge charged by a local agency, special district, or water corporation.
(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a localagency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee orcapacity charge, unless the accessory dwelling unit was constructed with a new single-family home.
(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwellingunit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creationof an accessory dwelling unit.
(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.
(2) (A) If the department finds that the local agency’s ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other

action authorized by this section.
(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shalldo one of the following:
(i) Amend the ordinance to comply with this section.
(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despitethe findings of the department.
(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopta resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.
(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017,and January 1, 2020.
(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3of Title 2.
(j) As used in this section, the following terms mean:
(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes thefollowing:
(A) An efficiency unit.
(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.
(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does notinclude a garage or any accessory structure.
(5) "Local agency" means a city, county, or city and county, whether general law or chartered.
(6) "Nonconforming zoning condition" means a physical improvement on a property that does not conform withcurrent zoning standards.
(7) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entranceof the accessory dwelling unit.
(8) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets therequirements for permitting.
(9) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and areavailable to the public.
(10) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on alot, lined up behind one another.
(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.
(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the

effect or application ofthe California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.
(m)A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, asspecified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with thisdivision.
(n)In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:
(1)The accessory dwelling unit was built before January 1, 2020.
(2)The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time theaccessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
(o)This section shall remain in effect only until January 1, 2025, and as of that date is repealed.
(Becomes operative on January 1, 2025)

Section 65852.2 of the Government Code is amended to read (changes from January 1, 2021 statute noted inunderline/italic):

65852.2.
(a)(1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned toallow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:
(A)Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.
(B)(i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any realproperty that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.
(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.
(C)Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.
(D)Require the accessory dwelling units to comply with all of the following:
(i)The accessory dwelling unit may be rented separate from the primary residence, but may not be sold orotherwise conveyed separate from the primary residence.
(ii)The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.
(iii)The accessory dwelling unit is either attached to, or located within, the proposed or

existing primary dwelling,including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv)If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v)The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi)No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii)No setback shall be required for an existing living area or accessory structure or a structure constructed in thesame location and to the same dimensions as an existing structure that is converted to an accessory dwelling unitor to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix)Approval by the local health officer where a private sewage disposal system is being used, if required.

(x)(I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II)Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasiblebased upon specific site or regional topographical or fire and life safety conditions.

(III)This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi)When a garage, carport, or covered parking structure is demolished in conjunction with the construction of anaccessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii)Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primaryresidence.

(2)The ordinance shall not be considered in the application of any local ordinance, policy, or program to limitresidential growth.

(3)A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on theapplication to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date thelocal agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. *If the local agency hasnot acted upon the completed application within 60 days, the application shall be deemed approved.* A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs

of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.
(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.
(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.
(6) *(A)* This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed
accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or ~~imposed, including any owner-occupant requirement, except that~~ *imposed except that, subject to subparagraph (B),* a local agency may require *an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or* that the property be used for rentals of terms longer than 30 days.
(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020, to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.
(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.
(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If

the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c)(1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements forboth attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit thatprohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is lessthan either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size,for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessorydwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e)(1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an applicationfor a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit ~~or~~ *and* one junior accessory dwelling unit per lot with a proposed or existingsingle-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combinedwith a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C)(i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.
(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.
(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.
(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.
(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).
~~(4)~~ *(5)* A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.
~~(5)~~ *(6)* A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.
~~(6)~~ *(7)* Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.
(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.
(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.
(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision
(b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.
(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory

dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family ~~home.~~ *dwelling*.
(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.
(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.
(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.
(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:
(i) Amend the ordinance to comply with this section.
(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.
(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.
(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.
(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.
(j) As used in this section, the following terms mean:
(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:
(A) An efficiency unit.
(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located

on the same lot.
(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.
(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.
(5) "Local agency" means a city, county, or city and county, whether general law or chartered.
(6) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.
(7) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
(8) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
(9) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
(10) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.
(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.
(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.
(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:
(1) The accessory dwelling unit was built before January 1, 2020.
(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
(o) This section shall ~~remain in effect only until January 1, 2025, and as of that date is repealed.~~ *become operative on January 1, 2025.*

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2
AB 345 (Accessory Dwelling Units)

Effective January 1, 2022, Section 65852.26 is amended to read:

65852.26.
(a) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency ~~may, by ordinance~~, *shall* allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

(1) The ~~property~~ *accessory dwelling unit or the primary dwelling* was built or developed by a qualified nonprofit corporation.

(2) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(3) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:

(A) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each *that* qualified buyer occupies.

(B) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the~~property~~ *accessory dwelling unit or primary dwelling* if the buyer desires to sell or convey the property.

(C) A requirement that the qualified buyer occupy the ~~property~~ *accessory dwelling unit or primary dwelling* as the buyer's principal residence.

(D) Affordability restrictions on the sale and conveyance of the ~~property~~ *accessory dwelling unit or primary dwelling* that ensure the ~~property~~ *accessory dwelling unit and primary dwelling* will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.

(E) *If the tenancy in common agreement is recorded after December 31, 2021, it shall also include all of the following*

(i) Delineation of all areas of the property that are for the exclusive use of a cotenant. Each cotenant shall agree not to claim a right of occupancy to an area delineated for the exclusive use of another cotenant, provided that the latter cotenant's obligations to each of the other cotenants have been satisfied.

(ii) Delineation of each cotenant's responsibility for the costs of taxes, insurance, utilities, general maintenance and repair, improvements, and any other costs, obligations, or liabilities associated with the property. This delineation shall only be binding on the parties to the agreement, and shall not supersede or obviated the liability, whether joint and several or otherwise, of the parties for any cost, obligation, or liability associated with the property where such liability is otherwise established by law or by agreement with a third party.

(iii) Procedures for dispute resolution among the parties before resorting to legal action.

(4) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

(5) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (f) of Section 65852.2, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

(b) For purposes of this section, the following definitions apply:

(1) "Qualified buyer" means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(2) "Qualified nonprofit corporation" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

Effective January 1, 2021, Section 4740 of the Civil Code is amended to read (changes noted in strikeout, underline/italics) (AB 3182 (Ting)):

4740.
(a) An owner of a separate interest in a common interest development shall not be subject to a provision in a governing document or an amendment to a governing document that prohibits the rental or leasing of any of the separate interests in that common interest development to a renter, lessee, or tenant unless that governing document, or amendment thereto, was effective prior to the date the owner acquired title to ~~his or her~~ *their* separate interest.
~~(b) Notwithstanding the provisions of this section, an owner of a separate interest in a common interest development may expressly consent to be subject to a governing document or an amendment to a governing document that prohibits the rental or leasing of any of the separate interests in the common interest development to a renter, lessee, or tenant.~~
~~(c)~~ *(b)* For purposes of this section, the right to rent or lease the separate interest of an owner shall not be deemed to have terminated if the transfer by the owner of all or part of the separate interest meets at least one of the following conditions:
(1) Pursuant to Section 62 or 480.3 of the Revenue and Taxation Code, the transfer is exempt, for purposes of reassessment by the county tax assessor.
(2) Pursuant to subdivision (b) of, solely with respect to probate transfers, or subdivision (e), (f), or (g) of, Section 1102.2, the transfer is exempt from the requirements to prepare and deliver a Real Estate Transfer Disclosure Statement, as set forth in Section 1102.6.
~~(d)~~ *(c)* Prior to renting or leasing ~~his or her~~ *their* separate interest as provided by this section, an owner shall provide the association verification of the date the owner acquired title to the separate interest and the name and contact information of the prospective tenant or lessee or the prospective tenant's or lessee's representative.
~~(e)~~ *(d)* Nothing in this section shall be deemed to revise, alter, or otherwise affect the voting process by which a common interest development adopts or amends its governing documents.

~~(f) This section shall apply only to a provision in a governing document or a provision in an amendment to a governing document that becomes effective on or after January 1, 2012.~~

Effective January 1, 2021 of the Section 4741 was added to the Civil Code, to read:

4741.
(a)An owner of a separate interest in a common interest development shall not be subject to a provision in a governing document or an amendment to a governing document that prohibits, has the effect of prohibiting, or unreasonably restricts the rental or leasing of any of the separate interests, accessory dwelling units, or junior accessory dwelling units in that common interest development to a renter, lessee, or tenant.
(b)A common interest development shall not adopt or enforce a provision in a governing document or amendment to a governing document that restricts the rental or lease of separate interests within a common interest to less than 25 percent of the separate interests. Nothing in this subdivision prohibits a common interest development from adopting or enforcing a provision authorizing a higher percentage of separate interests to be rented or leased.(c) This section does not prohibit a common interest development from adopting and enforcing a provision in a governing document that prohibits transient or short-term rental of a separate property interest for a period of 30 days or less.
(d)For purposes of this section, an accessory dwelling unit or junior accessory dwelling unit shall not be construed as a separate interest.
(e)For purposes of this section, a separate interest shall not be counted as occupied by a renter if the separate interest, or the accessory dwelling unit or junior accessory dwelling unit of the separate interest, is occupied by the owner.
(f)A common interest development shall comply with the prohibition on rental restrictions specified in this section on and after January 1, 2021, regardless of whether the common interest development has revised their governing documents to comply with this section. However, a common interest development shall amend their governing documents to conform to the requirements of this section no later than December 31, 2021.
(g)A common interest development that willfully violates this section shall be liable to the applicant or other party for actual damages, and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars ($1,000).
(h)In accordance with Section 4740, this section does not change the right of an owner of a separate interest who acquired title to their separate interest before the effective date of this section to rent or lease their property.

Effective January 1, 2020, Section 65852.22 of the Government Code was amended to read:

65852.22.
(a)Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:
(1)Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residenceswith a single-family residence built, or proposed to be built, on the lot.
(2)Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the

structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, landtrust, or housing organization.
(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permittingagency, and shall include both of the following:
(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-familyresidence, including a statement that the deed restriction may be enforced against future purchasers.
(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.
(4) Require a permitted junior accessory dwelling unit to be constructed within the walls of proposed or existing single-family residence.
(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance tothe proposed or existing single-family residence.
(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:
(A) A cooking facility with appliances.
(B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.
(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine if the junior accessory dwelling unit complies with applicable building standards.
(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted witha permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.
(d) For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not beconsidered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city andcounty, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether thesingle-family residence includes a junior accessory dwelling unit or not.
(e) For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessorydwelling unit shall not be considered a separate or new dwelling unit.
(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as

that ordinance or regulation applies uniformly to all single- family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.
(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.
(h) For purposes of this section, the following terms have the following meanings:
(1) “Junior accessory dwelling unit” means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
(2) “Local agency” means a city, county, or city and county, whether general law or chartered.

Effective January 1, 2020 Section 17980.12 was added to the Health and Safety Code, immediately following Section 17980.11, to read:

17980.12.
(a) (1) An enforcement agency, until January 1, 2030, that issues to an owner of an accessory dwelling unit described in subparagraph (A) or (B) below, a notice to correct a violation of any provision of any building standard pursuant to this part shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to this subdivision:
(A) The accessory dwelling unit was built before January 1, 2020.
(B) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
(2) The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in paragraph (1) may, in the form and manner prescribed by the enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety.
(3) The enforcement agency shall grant an application described in paragraph (2) if the enforcement determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Section 13146.
(4) The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph (3).
(b) For purposes of this section, “accessory dwelling unit” has the same meaning as defined in Section 65852.2.
(c) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

CIVIL CODE: DIVISION 4, PART 5, CHAPTER 5, ARTICLE 1

AB 670 Accessory Dwelling Units

Effective January 1, 2020, Section 4751 was added to the Civil Code, to read (AB 670 (Friedman)):

4751.

(a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, "reasonable restrictions" means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 3, ARTICLE 10.6

AB 671 Accessory Dwelling Units

Effective January 1, 2020, Section 65583(c)(7) of the Government Code was added to read (sections of housing element law omitted for conciseness) (AB 671 (Friedman)):

65583(c)(7).

Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling unit" as defined in paragraph (4) of subdivision (i) of Section 65852.2.

Effective January 1, 2020, Section 50504.5 was added to the Health and Safety Code, to read (AB 671 (Friedman)):

50504.5.

(a) The department shall develop by December 31, 2020, a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of an accessory dwelling unit with affordable rent, as defined in Section 50053, for very low, low-, and moderate-income households.

(b) The list shall be posted on the department's internet website by December 31, 2020.

(c) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in paragraph (4) of subdivision (i) of Section 65852.2 of the Government Code.

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2 & TITLE 7, DIVISION 2, CHAPTER 1, ARTICLE 1

SB 9 Housing development: approvals

Effective January 1, 2022, Section 65852.21 was added to the Government Code, to read:

65852.21. *(a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:*
(1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.
(2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.
(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:
(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
(C) Housing that has been occupied by a tenant in the last three years.
(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application. 94 — 3 — Ch. 162
(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:
(A) If a local ordinance so allows.
(B) The site has not been occupied by a tenant in the last three years.
(6) The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.
(b)(1) Notwithstanding any local law and except as provided in paragraph (2), a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this section.
(2)(A) The local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area. (B)(i) Notwithstanding subparagraph (A), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
(ii) Notwithstanding subparagraph (A), in all other circumstances not described in clause (i), a local agency may require a setback of up to four feet from the side and rear lot lines.

(c) In addition to any conditions established in accordance with subdivision (b), a local agency may require any of the following conditions when considering an application for two residential units as provided for in this section:
(1) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:
(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
(B) There is a car share vehicle located within one block of the parcel. (2) For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.
(d) Notwithstanding subdivision (a), a local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is 94 Ch. 162 — 4 — no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
(e) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.
(f) Notwithstanding Section 65852.2 or 65852.22, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.
(g) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.
(h) Local agencies shall include units constructed pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.
(i) For purposes of this section, all of the following apply:
(1) A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.
(2) The terms “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.
(3) “Local agency” means a city, county, or city and county, whether general law or chartered.
(j) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.
(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.

Section 66411.7 is added to the Government Code, to read:

66411.7. *(a) Notwithstanding any other provision of this division and any local law, a local agency shall ministerially approve, as set forth in this section, a parcel map for an urban lot split only if the local agency determines that the parcel map for the urban lot split meets all the following requirements:*
(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.
(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet. (B) A local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval under this subdivision.
(3) The parcel being subdivided meets all the following requirements:
(A) The parcel is located within a single-family residential zone.
(B) The parcel subject to the proposed urban lot split is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.
(C) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.
(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing: (i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power. (iii) A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
(iv) Housing that has been occupied by a tenant in the last three years.
(E) The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.
(F) The parcel has not been established through prior exercise of an urban lot split as provided for in this section. (G) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.
(b) An application for a parcel map for an urban lot split shall be approved in accordance with the following requirements:
(1) A local agency shall approve or deny an application for a parcel map for an urban lot split ministerially without discretionary review.
(2) A local agency shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section.
(3) Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section.

(c) (1) Except as provided in paragraph (2), notwithstanding any local law, a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to a parcel created by an urban lot split that do not conflict with this section.
(2) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.
(3) (A) Notwithstanding paragraph (2), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
(B) Notwithstanding paragraph (2), in all other circumstances not described in subparagraph (A), a local agency may require a setback of up to four feet from the side and rear lot lines.
(d) Notwithstanding subdivision (a), a local agency may deny an urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
(e) In addition to any conditions established in accordance with this section, a local agency may require any of the following conditions when considering an application for a parcel map for an urban lot split:
(1) Easements required for the provision of public services and facilities.
(2) A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way. (3) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:
(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.
(B) There is a car share vehicle located within one block of the parcel.
(f) A local agency shall require that the uses allowed on a lot created by this section be limited to residential uses. (g) (1) A local agency shall require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.
(2) This subdivision shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.
(3) A local agency shall not impose additional owner occupancy standards, other than provided for in this subdivision, on an urban lot split pursuant to this section.
(h) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.
(i) A local agency shall not require, as a condition for ministerial approval of a parcel map application for the creation of an urban lot split, the correction of nonconforming zoning conditions.
(j) (1) Notwithstanding any provision of Section 65852.2, 65852.21, 65852.22, 65915, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section.
(2) For the purposes of this section, "unit" means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in Section 65852.2, or a junior accessory dwelling unit as defined in Section 65852.22.

(k) Notwithstanding paragraph (3) of subdivision (c), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.
(l) Local agencies shall include the number of applications for parcel maps for urban lot splits pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.
(m) For purposes of this section, both of the following shall apply:
(1) "Objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.
(2) "Local agency" means a city, county, or city and county, whether general law or chartered.
(n) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.
(o) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for urban lot splits pursuant to this section.

Attachment 2: ADU Resources

ACCESSORY DWELLING UNITS: CASE STUDY

By the United States Department of Housing and Urban Development, Office of Policy Development andResearch. (2008)

Introduction: Accessory dwelling units (ADUs) — also referred to as accessory apartments, ADUs, or granny flats— are additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities and can be either attached or detachedfrom the main residence. This case study explores how the adoption of ordinances, with reduced regulatory restrictions to encourage ADUs, can be advantageous for communities. Following an explanation of the various types of ADUs and their benefits, this case study provides examples of municipalities with successful ADU legislation and programs. Section titles include: History of ADUs; Types of Accessory Dwelling Units; Benefits of Accessory Dwelling Units; and Examples of ADU Ordinances and Programs.

ADU UPDATE: EARLY LESSONS AND IMPACTS OF CALIFORNIA'S STATE AND LOCAL POLICY CHANGES

By David Garcia (2017)

Terner Center for Housing and Innovation, UC Berkeley

As California's housing crisis deepens, innovative strategies for creating new housing units for all income levels are needed. One such strategy is building Accessory Dwelling Units (ADUs) by private homeowners. While large scale construction of new market rate and affordable homes is needed to alleviate demand-driven rent increases and displacement pressures, ADUs present a unique opportunity for individual homeowners to create more housing as well. In particular, ADUs can increase the supply of housing in areas where there are fewer opportunities for larger-scale developments, such as neighborhoods that are predominantly zoned for and occupied by single-family homes.

In two of California's major metropolitan areas -- Los Angeles and San Francisco -- well over three quarters of the total land area is comprised of neighborhoods where single-family homes make up at least 60 percent of the community's housing stock. Across the state, single-family detached units make up 56.4 percent of the overall housing stock. Given their prevalence in the state's residential land use patterns, increasing the number of single- family homes that have an ADU could contribute meaningfully to California's housing shortage.

ACCESSORY DWELLING UNITS AS LOW-INCOME HOUSING: CALIFORNIA' FAUSTIAN BARGAIN

By Darrel Ramsey-Musolf (2018)

University of Massachusetts Amherst, ScholarWorks@UMass Amherst

In 2003, California allowed cities to count accessory dwelling units (ADU) towards low-income housing needs. Unless a city's zoning code regulates the ADU's maximum rent, occupancy income, and/or effective period, then the city may be unable to enforce low-income occupancy. After examining a stratified random sample of 57 low-, moderate-, and high-income cities, the high-income cities must proportionately accommodate more low-income needs than low-income cities. By contrast, low-income cities must quantitatively accommodate three times the low- income needs of high-income cities. The sample counted 750 potential ADUs as low-income housing. Even though 759 were constructed, no units were identified as available low-income housing. In addition, none of the cities' zoning codes enforced low-income occupancy. Inferential tests determined that cities with colleges and high incomes were more probable to count ADUs towards overall and low-income housing needs. Furthermore, a city's count of potential ADUs and cities with high proportions of renters maintained positive associations with ADU production, whereas a city's density and prior compliance with state housing laws maintained negative associations. In summary, ADUs did increase local housing inventory and potential ADUs were positively associated with ADU production, but ADUs as low-income housing remained a paper calculation.

IMPLEMENTING THE BACKYARD REVOLUTION: PERSPECTIVES OF CALIFORNIA'S ADU OWNERS (2022)

By Karen Chapple, Dori Ganetsos, and Emmanuel Lopez (2022)
UC Berkeley Center for Community Innovation

The report presents the findings from the first-ever statewide ADU owner survey in California.

JUMPSTARTING THE MARKET FOR ACCESSORY DWELLING UNITS: LESSONS LEARNED FROM PORTLAND, SEATTLE AND VANCOUVER

By Karen Chapple et al (2017)
Terner Center for Housing and Innovation, UC Berkeley

Despite government attempts to reduce barriers, a widespread surge of ADU construction has not materialized. The ADU market remains stalled. To find out why, this study looks at three cities in the Pacific Northwest of the United States and Canada that have seen a spike in construction in recent years: Portland, Seattle, and Vancouver. Each city has adopted a set of zoning reforms, sometimes in combination with financial incentives and outreach programs, to spur ADU construction. Due to these changes, as well as the acceleration of the housing crisis in each city, ADUs have begun blossoming.

THE MACRO VIEW ON MICRO UNITS

By Bill Whitlow, et al. – Urban Land Institute
(2014) Library Call #: H43 4.21 M33 2014

The Urban Land Institute Multifamily Housing Councils were awarded a ULI Foundation research grant in fall 2013to evaluate from multiple perspectives the market performance and market acceptance of micro and small units.

REACHING CALIFORNIA'S ADU POTENTIAL: PROGRESS TO DATE AND THE NEED FOR ADU FINANCE

Karen Chapple, et al. – Terner Center (2020)

To build upon the early success of ADU legislation, the study argues that more financial tools are needed to facilitate greater ADU development amongst low to moderate income homeowners who do not have access to cash saving and cannot leverage home equity. The study recommends that the federal government create ADU-specific construction lending programs. In addition, California could lead this effort by creating a program to assist homeowners in qualifying for ADU construction loans.

RETHINKING PRIVATE ACCESSORY DWELLINGS

By William P. Macht. Urbanland online. (March 6, 2015)
Library Location: Urbanland 74 (1/2) January/February 2015, pp. 87-91.

One of the large impacts of single-use, single-family detached zoning has been to severely shrink the supply of accessory dwellings, which often were created in or near primary houses. Detached single-family dwelling zones—the largest housing zoning category—typically preclude more than one dwelling per lot except under stringent regulation, and then only in some jurisdictions. Bureaucratically termed "accessory dwelling units" that are allowed by some jurisdictions may encompass market-derived names such as granny flats, granny cottages, mother-in-lawsuites, secondary suites, backyard cottages, casitas, carriage flats, sidekick houses, basement apartments, attic apartments, laneway houses, multigenerational homes, or home-within-a-home.

REGULATION ADUS IN CALIFORNIA: LOCAL APPROACHES & OUTCOMES

By Deidra Pfeiffer (May 16, 2019)
Terner Center for Housing and Innovation, UC Berkeley

Accessory dwelling units (ADU) are often mentioned as a key strategy in solving the nation's housing problems, including housing affordability and challenges associated with aging in place. However, we know little about whether formal ADU practices—such as adopting an ordinance, establishing regulations, and permitting— contribute to these goals. This research helps to fill this gap by using data from the Terner California Residential Land Use Survey and the U.S. Census Bureau to understand the types of communities engaging in different kinds of formal ADU practices in California, and whether localities with adopted ordinances and less restrictive regulations have more frequent applications to build ADUs and increasing housing affordability and aging in place. Findings suggest that three distinct approaches to ADUs are occurring in California: 1) a more restrictive approach in disadvantaged communities of color, 2)

a moderately restrictive approach in highly advantaged, predominately White and Asian communities, and 3) a less restrictive approach in diverse and moderately advantaged communities. Communities with adopted ordinances and less restrictive regulations receive more frequent applications to build ADUs but have not yet experienced greater improvements in housing affordability and aging inplace. Overall, these findings imply that 1) context-specific technical support and advocacy may be needed to helpalign formal ADU practices with statewide goals, and 2) ADUs should be treated as one tool among many to manage local housing problems.

SECONDARY UNITS AND URBAN INFILL: A LITERATURE REVIEW

By Jake Wegmann and Alison Nemirow (2011)
UC Berkeley: IURD
Library Call # D44 4.21 S43 2011

This literature review examines the research on both infill development in general, and secondary units in particular, with an eye towards understanding the similarities and differences between infill as it is more traditionally understood – i.e., the development or redevelopment of entire parcels of land in an already urbanized area – and the incremental type of infill that secondary unit development constitutes.

STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY GAVIN NE

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov

December 21, 2022

Jonathan Lait, Director
Planning and Development Services
City of Palo Alto
250 Hamilton Avenue, 5th Floor
Palo Alto, CA 94301

Dear Jonathan Lait:

RE: City of Palo Alto Accessory Dwelling Unit (ADU) Ordinance – Letter of Technical Assistance

The California Department of Housing and Community Development (HCD) thanks the City of Palo Alto (City) for submitting accessory dwelling unit (ADU) Ordinance Number 5507 (Ordinance) and for its response to HCD's December 23, 2021, written findings of non-compliance. HCD appreciates the time and effort the City took in crafting its February 3, 2022, response, and for the conversation between City staff and HCD Analyst Lauren Lajoie on February 2, 2022. Nevertheless, HCD has concerns with the City's response as it fails to address identified inconsistencies between the City's ADU ordinance and State ADU Law, as outlined in this letter.

HCD requests that the City respond to this letter no later than January 20, 2023, with a detailed plan of action and timeline, to bring its Ordinance into compliance pursuant to Government Code section 65852.2, subdivision (h)(2)(B).

Background and Summary of Issues
In its December 23, 2021, findings, HCD detailed where it found the Ordinance violates Government Code section 65852.2. In its February 3, 2022, letter, the City responded point by point to the findings as they were presented in the HCD letter. While the responses indicate a willingness to come into compliance with state law, HCD remains concerned that the proposed changes to the City's Ordinance are insufficient. This letter will address HCD's findings for which the City's response and/or commitment to correct was not satisfactory and where HCD still considers an inconsistency between the Ordinance and State ADU Law.

1) **HCD's Original Finding**
   Daylight Plane - Section 18.09.040(b): Table 2 states that "daylight plane" acts as a limit on the height of ADUs. In many instances, this may not be a problem; however, daylight plane concerns cannot be used to unduly limit the height of an ADU. ADUs

are permitted up to 16 feet high. (Gov. Code, § 65852.2, subds. (c)(2)(C), (e)(1)(B)(ii).) Therefore, in considering restrictions that the City is imposing on ADUs for daylight planes, the ordinance should note the 16-foot height allowable for ADUs. This Table must be amended to clarify this point.

Palo Alto's Response
"Please note that the City's daylight plane regulations do not apply to subdivision (e) ADUs, which are governed by PAMC Section 18.09.030. The City will add a clarifying sentence at the top of Section 18.09.040 explaining that none of the regulations in PAMC 18.09.040 apply to subdivision (e) ADUs. In addition, the City will add a clarifying statement that the regulations in PAMC 18.09.040 are not intended to limit the conversion of existing structures to ADUs or JADUs. For all other ADUs; however, the City has requested clarity on HCD's position on daylight plane on numerous occasions, most recently by email dated August 8, 2021. Please see this email, which is attached, for an explanation of the City's position. The City looks forward to continued discussion of this topic."

HCD's Follow-up Response
On February 23, 2022, HCD received a copy of an email from Assistant City Attorney (ACA) Albert Yang dated August 30, 2021. ACA Yang sought clarification on behalf of the City on whether local government could enforce a development standard that would require that any portion of an ADU fall below 16 feet in height. The email states: "Subdivision (c)(2)(C) provides that a local agency may not establish "[1] any other minimum or maximum size for an accessory dwelling unit, [2] size based upon a percentage of the proposed or existing primary dwelling, or [3] limits on lot coverage, [4] floor area ratio, [5] open space, and [6] minimum lot size [. . .] that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards." ACA Yang argues that the law is very specific regarding the development standards addressed and it (*the subdivision)* specifically recognizes that the list does not encompass all development standards. ACA Yang states, "The specific development standards addressed in subdivision (c)(2)(C) do not include daylight plane standards." ACA Yang impliedly concludes that because the development standards, which ACA Yang numbered from [1] through [6], do not list daylight plane standards, the City may impose daylight plane standards over the minimum 16-foot height requirement.

However, the City incorrectly cited subdivision (c)(2)(C) above; thereby, creating a list of "development standards" from portions of (c)(2)(A) and (c)(2)(B)(i) and (ii) and conflated these with "other local development standards" found in subdivision (c)(2)(C). Accurately cited, subdivision (c)(2)(C) states:

> (C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot

coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

State ADU Law authorizes a local agency to establish the minimum and maximum size requirements for ADUs in subdivision (c)(1), but any such size requirement must allow for a minimum height of 16 feet while being constructed in compliance with all other local development standards. This height requirement is meant to be in harmony with local development standards. Because the subdivision has set the minimum height, authorized by statute, local design standards set in the ordinance cannot invalidate this provision, pursuant to Government Code section 65852.2 (a)(5). Therefore, **the minimum height of all proposed ADUs is 16 feet and cannot be limited by Daylight Plane restrictions**. Table 2 must be amended to clarify this point. Please note that SB 897 (2022), effective January 1, 2023, amends this subdivision, and adds provisions regarding the minimum height for detached and attached ADUs.

2) **HCD's Original Finding**
Floor Area & JADUs - Section 18.09.040(b): Development standards can account for ADUs in their measurement of the floor area restrictions or ratio (FAR). But these standards may not account for or consider JADUs. A JADU may not be included in this calculation, because a JADU is a unit that is contained entirely within a single-family residence. (Gov. Code § 65852.22, subd. (h)(1).) Footnote 4 of Table 2 impermissibly includes JADUs as part of the FAR calculations. This footnote must be amended to clarify this point.

Palo Alto's Response
"Footnote 4 of Table 2 provides additional FAR on a site for ADUs and JADUs. This is an incentive to promote production of such units without limiting the development potential of a primary unit. Because a JADU is contained entirely within the space of a single-family residence, it would normally be included in the floor area of the primary unit. Footnote 4 provides an opportunity for a property owner to exempt all JADU square footage from the calculation of floor area for the primary unit. The removal of JADUs from footnote 4 would only serve to restrict the development of JADUs. The City will attempt to clarify the language of this footnote."

HCD's Follow-up Response
HCD supports the City's attempt to add clarifying language. Converting an area within an existing home should not be counted. To clarify footnote 4 in Table 2, the City could include, for example, "This provision applies to JADUs in **proposed** single-family dwellings, or remodels that increase the square footage of a single-family dwelling."

3) **HCD's Original Finding**
Noise-Producing Equipment - Section 18.09.040(h): Local agencies may impose development standards on ADUs; however, these standards shall not exceed state standards. Section 18.09.040(h) states that noise-producing equipment "shall be located outside of the setbacks." This section must be revised to only refer to ADUs since setbacks are not required for JADUs. In addition, this setback for noise-producing equipment for ADUs must be revised to make clear that this setback requirement will not impede the minimum state standards of four-foot setbacks. (Gov. Code, § 65852.2, subd. (c)(2)(C)).

Palo Alto's Response
"As noted above, the City will add a clarifying statement that the regulations in PAMC 18.09.040 are not intended to limit the conversion of existing structures to ADUs or JADUs. For new construction; however, the City permits JADUs to build at a lesser setback than a single-family home normally would. Therefore, the removal of JADUs from this section will only serve to restrict the development of JADUs.

"Additionally, the City's ordinance states that noise producing equipment needs to be placed outside the setback for an ADU or JADU. This means that the noise producing equipment itself cannot be placed closer than four feet to a property line for either type of structure; not that the ADU or JADU cannot be placed at those locations. This is consistent with the state setback requirements for an ADU."

HCD's Follow-up Response
JADUs are entirely within the walls of a proposed or existing single-family dwelling and as such not subject to any setback requirements. Therefore, the City should remove the reference to JADU from *Section 18.09.040(h).* The City writes, "For new construction; however, the City permits JADUs to be built at a lesser setback than a single-family home normally would." Please clarify this statement for us. HCD applauds the City's intention to promote JADUs by relaxing setback requirements. However, since setbacks do not apply to JADUs, the City would have to relax the setback requirements for the primary single-family dwelling to achieve the desired effect.

4) **HCD's Original Finding**
Corner Lots - Section 18.09.040(j) Design: This section states, "Except on corner lots, the unit shall not have an entranceway facing the same lot line (property line) as the entranceway to the main dwelling unit unless the entranceway to the accessory unit is located in the rear half of the lot. Exterior staircases to second floor units shall be located towards the interior side or rear yard of the property." These standards appear to apply only to the creation of ADUs and may unduly restrict the placement of an ADU on some lots. Local development standards provided by ordinance pursuant to subdivisions (a) through (d) of Government Code section 65852.2 do not apply to ADUs created under subdivision (e). Please consider eliminating this restriction or modifying it such that it applies "when feasible."

Palo Alto's Response
"As noted above, the City will add a clarifying sentence at the top of Section 18.09.040 explaining that none of the regulations in PAMC 18.09.040 apply to subdivision (e) ADUs. The City will clarify this is not applicable for subsection (e) ADUs. We are not aware of any evidence that this simple design requirement creates an excessive constraint on ADU production and that has not been our experience."

HCD's Follow-Up Response
Requirements such as stipulating the facing of entranceways or the location of stairways may unduly restrict the creation of ADUs on some lots. Statute for both ADUs (Gov. Code, § 65852.2, subd. (e)(1)(A)(ii)) and JADUs (Gov. Code, § 65852.22, subd. (a)(5)) require independent entry into the unit, and a constraint on the location of an entry door may prohibit the creation of an additional housing unit. In addition, this requirement could add significant expense if entry doors must be installed in an exterior wall instead of utilizing an existing doorway facing the same direction as the entryway to the primary dwelling. The City must either eliminate this restriction or modify it such that it applies "when feasible."

5) **HCD's Original Finding**
Parking - Section 18.09.040(k)(iv) Parking: The ordinance indicates if covered parking for a unit is provided in any district, the maximum size of the covered parking area for the accessory dwelling unit is 220 square feet. Further, under this section, the space for the covered parking count towards the total floor area for the site and the ADU if attached to the unit. Covered parking should not count towards the total floor area of the site as if it would unduly limit the allowable size of an ADU established by state law, nor should it directly count toward the area available for the ADU. Although standards within an underlying zone may apply when noted in the adopted ADU ordinance, they may not be more restrictive than those contained in state statute. (See, e.g., Gov. Code, § 65852.2, subs. (a)(1)(B), (a)(1)(D)(vii), (a)(1)(D)(x), (c), and (e).) The portion of this section stating "unit unless attached to the unit" should be deleted, or the section should otherwise be modified to comply with state law.

Palo Alto's Response
"As noted above, the City will add a clarifying sentence at the top of Section 18.09.040 explaining that none of the regulations in PAMC 18.09.040 apply to subdivision (e) ADUs.

"Currently, all covered parking in the single-family zones counts towards floor area for the site and dwelling unit. The City does not understand how this creates a standard that is more restrictive than that contained in state statute; none of the subsections cited in your letter speak to whether a garage for an ADU must be

exempted from the unit size for the ADU. Moreover, this provision does not create a constraint on ADU production, as a property owner may always choose to provide a detached garage, uncovered parking, or no parking at all for the ADU.

"The City has concerns that allowing attached garages onto these structures will incentivize individuals to illegally expand the unit into the garage, which would both exceed the City's ordinance, contain unpermitted construction, and potentially place the health and safety of the occupants at risk."

HCD's Follow-up Response
Covered parking does not count towards the total floor area of the ADU. An ADU is defined in Government Code section 65852.2, subdivision (j)(1), as "complete independent living facilities," and subdivision (j)(4) further specifies that the living area for the ADU "does not include a garage..." Thus, a covered parking space or garage, whether or not attached to a unit, would be considered "non-livable" space. Therefore, as stated in our original finding, covered parking should not count towards the total floor area of the site as it would unduly limit the allowable size of an ADU established by state law. Similarly, it should not directly count toward the area available for the ADU, as this could also restrict the size of the ADU. The addition of garage space to the ADUs livable space would violate ADU size requirements found in Government Code section 65852.2, subdivisions (a)(1)(D)(iv) and (v), and (c).

While the City raises concerns of potential illegal expansion, the City may not adopt an ordinance that would violate State ADU Law. The City may rely on its enforcement of codes and standards to mitigate its concerns. The City should remove the portion of this section stating "unless attached to the unit" or otherwise modify the section to comply with State ADU Law.

Conclusion

Given the deficiencies described above and in HCD's December 23, 2021, letter, the City's Ordinance is inconsistent with State ADU Law. HCD requests that the City respond to this letter no later than January 20, 2023, with a detailed plan of action and timeline, to bring its Ordinance into compliance pursuant to Government Code section 65852.2, subdivision (h)(2)(B). Specifically, to bring its ADU ordinance into compliance, the City must either amend the Ordinance according to HCD's findings to comply with State ADU Law (Gov. Code, § 65852.2, subd. (h)(2)(B)(i)) or readopt the Ordinance without changes. Should the City choose to readopt the Ordinance without the changes specified by HCD, the City must include findings in its resolution that explain the reasons the City finds that the Ordinance complies with State ADU Law despite the findings made by HCD. (Gov. Code, § 65852.2, subd. (h)(2)(B)(ii), (h)(3)(A).)

HCD will review and consider any plan of action and timeline received from the City before January 20, 2023, in advance of taking further action authorized by Government Code section 65852.2.

HCD appreciates the City's efforts provided in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please feel free to contact Mike Van Gorder, of our staff, at (916) 776-7541 or at mike.vangorder@hcd.ca.gov.

Sincerely,

Shannan West
Housing Accountability Unit Chief

City Council Agenda Report

Meeting Date: April 9, 2024
Initiated By: Manny A. Hernandez, Parks & Rec Director
Prepared By: Manny A. Hernandez, Parks & Rec Director
Approved By: Gabriel Engeland, City Manager

Subject: Program Modification and Recommendations for Tiny Tots Programs and Award Three-year Agreement with Children's Corner to operate Preschool-age Services

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COUNCIL PRIORITY AREA

☐Business Communities
☐Circulation Safety and Efficiency
☐Environmental Sustainability
☐Housing
☐Neighborhood Safety Infrastructure
☒General Government

RECOMMENDATION

Staff recommends the elimination of the City-run Playschool program and the signing of a 3-year agreement with Children's Corner to operate a preschool-age program at the San Antonio Club facility as soon as terms of the agreement can be reached. An evaluation of the San Antonio Club is needed to identify necessary modifications to the facility to allow for the operation of a licensed preschool program. The minimum necessary upgrades are to fire safety and ADA, but additional upgrades may be recommended.

Staff recommends the City Council direct staff to continue operating the Kinder Prep program through the 2024/25 school year under the proposed fee structure and budget (Attachment #1), offering registration only to current and alumni families. At the conclusion of this transition year, the City Council may:

1) Direct staff to end Kinder Prep operations in Los Altos as the expansion of the transitional Kindergarten at public schools will be in its final year and able to provide this service to Los Altos residents (Attachment #2); or
2) Direct staff to sign a three-year agreement with Children's Corner to operate Transitional Kindergarten programs in Los Altos; or
3) Direct City staff to continue operations with the proposed fee schedule in attachment #1 and factor in regular market increases in future years to eliminate further subsidy of these programs.

POLICY QUESTION(S) FOR COUNCIL CONSIDERATION

- Does Council wish to continue to provide a preschool age enrichment program as preparation for K-12 through the Parks & Recreation department?
- Does Council want to eliminate or make modifications to the Parks & Recreation preschool age program?
- Does Council consider the Tiny Tots program a service program that should be subsidized.

FISCAL IMPACT

The Tiny Tots program operated at a total net loss of $137,530 at the conclusion of the last fiscal year and is expected to have a total net loss of $283,719 at the end of the current fiscal year.

The total fiscal impact moving forward is based on City Council direction. Should the City Council approve the recommendation from staff to contract services for Playschool and enter into a transition year for Kinder Prep without a subsidy, the city would receive approximately $30,000 in revenues annually.

It is important to note that any revenue earned would be offset by the required improvements to Fire Safey and ADA at San Antonio Club. These would be one-time expenditures.

ENVIRONMENTAL REVIEW

This action does not qualify as a “Project” as defined in California Government Code Section 15378(b) of the Guidelines for California Environmental Quality Act (CEQA).

PREVIOUS COUNCIL CONSIDERATION

None

DISCUSSION/ANALYSIS

The Los Altos Parks & Recreation Tiny Tots program is a "play with a purpose" preschool program that has been run by the City for several decades. Two classes are offered: Playschool (3-4 years of age) for the youngest learners and Kinder Prep (4-5 years of age) for children who will enter kindergarten the following year.

PLAYSCHOOL

The Playschool program creates an age-appropriate environment for the 3–4-year-old participants, with a curriculum emphasizing social recreation and building positive self-worth. In this program, basic pre-kindergarten activities are integrated into the curriculum to introduce concepts of language, math, science, and socialization. The Playschool class is primarily outdoors and promotes physical, social, and emotional growth in a child-centered environment. The facility used for this program is the San Antonio Club (647 N San Antonio Road, Los Altos, CA).

The 2023/24 Playschool program year started in September 2023 and runs through the end of May 2024. This is a 3-day (Monday/Wednesday/Friday) program from 9 AM to 12 PM. There are currently eight participants in the program, recently increasing from the six registered participants that began in September.

The Playschool program has struggled to enroll participants for several years and has failed to meet attendance requirements for a sustainable operation since 2016. There was a clear challenge with the pandemic of 2020 and the ensuing years, however, staff has provided time and effort to help the program recover to sustainable levels but has not been successful in operating a sustainable program.

The largest challenge since the pandemic has been the hiring of part-time staff to run the program. The Recreation Coordinators and Supervisors that oversee the program are continuously going through the recruiting and hiring process to bring staff on to work in the program. Since 2021 part-time positions across the Bay Area have seen a great deal of instability. With part-time pre-school teacher positions having to be filled several times a year, the hiring process is exceptionally time-consuming. After hiring, time and effort is needed to on-board and train the new employees. Although the lead teachers of the program have been stable for a number of years, the majority of the current part-time staff are relatively new, with short tenures.

The registration and staffing challenges of Playschool have brought the financial viability of the program into question. Attachment #1 to this report shows the expected revenue and estimated expenses for the current fiscal year as well as the prior fiscal year. With only eight registrations for the FY 23/24 program and seeing flat to declining registrations over the last several years, staff is not recommending that the Playschool program be operated by the Parks & Recreation department any longer.

As part of staff's due diligence to find the best option for the community, a Request for Proposals (RFP) from qualified organizations to run Playschool and Kinder Prep programs was released. Staff recommends utilizing the most qualified organization to respond to the RFP, Children's Corner, to offer a preschool age enrichment program as part of the City's contracted program offerings. Staff believes that a respected organization like Children's Corner would be able to offer a program that would meet the needs of the community.

KINDER PREP

Kinder Prep is a social-recreational program that integrates fundamental concepts through engaging pre-k activities, so children are confident and eager to start kindergarten. Activities for this program include music and movement, games, arts and crafts, cooking, field trips, as well as directed and self-directed play. Kinder Prep is a 4-day a week program (Monday through Thursday) from 8:45 to 11:45 AM. Kinder Prep takes place in the Acorn Room at the Los Altos Community Center.

Kinder Prep has been facing the same challenges as the Playschool program. Staff retention, rising staff costs, and flat revenue. Although Kinder Prep has seen higher registration numbers than Playschool, pre-k programs in California will be facing another challenge in the coming years with the expansion of transitional kindergarten in schools.

In 2021, Governor Gavin Newsom signed Assembly Bill (AB) 130, which will gradually expand transitional kindergarten (TK) over a four-year period, between the 2022/23 to 2025/26 school years. This program is free and administered by the schools that the children will be transitioning

into the following year for kindergarten. The completion of this program expansion in the schools is now two years into the process, and once fully implemented will be in direct competition with any city-run programs. Staff does not see a path to a sustainable increase in Kinder Prep registrations once this school-run program is fully expanded.

In the attached financial summary of the current fiscal year of the entire Tiny Tots program, the 2023/24 losses are estimated to be between $215,000 (direct costs) and $283,000 (total costs). Staff has provided what a cost recovery program would look like for the Kinder Prep program, with cost recovery options for direct costs only or total costs. With an estimated registration of 12 participants and a child to teacher ratio of 6:1, the tuition for the program would see an increase of 250% to 330%. This budget assumes a reduction in full-time staff and administration costs with the elimination of the Playschool program, and reduced staff needed for the operation of only one program.

With the transitional Kindergarten expansion in the public schools, and an increase in tuition for the program to market rate, staff does not believe the Kinder Prep program can operate without a subsidy. Staff recommends operating the Kinder Prep program for the 2024/25 school year, as outlined as the Proposed TK Program of the attached financial summary, as a transitional year. The transitional year would allow all current and alumni participants who are eligible to enroll in the program to not have to make alternative plans for the upcoming school year. At the conclusion of the transition year, Council should provide direction on the future of the program in the options outlined in this report.

As noted above, if Council chooses to operate any programs discussed in this report out of San Antonio Club, upgrades to fire safety and ADA, at a minimum, should be made prior to the beginning of the next program period.

ATTACHMENTS

1. DRAFT program financial summary
2. About TK California

TINY TOTS (7320)	Object Code	Budget Detail	2023 Budget Actual		2024 Budget Actual (66% FY)	2024 Budget Expected (100% FY)		Proposed TK Program	Percentage of Previous Program
DIRECT COSTS									
F/T Employee Salary	5010	Supervisor & Coordinator	$ 72,794		$ 56,696	$ 94,494		$ 37,798	40%
P/T PERS	5024	Kinder Prep Teacher III	$ 28,844		$ 16,605	$ 24,908		$ 24,908	100%
P/T Non-PERS	5025	Teacher III, II & I	$ 83,249		$ 48,219	$ 72,329		$ 21,699	30%
Vac/Sick/Payout	5015	Vac/Sic TO payout	$ 24		$ -	$ -		$ -	
Retirement	5030	PERS employee retirement	$ 11,131		$ 9,155	$ 13,733		$ 5,493	40%
pers Unfunded Liability	5032	PERS Unfunded Liability	$ -		$ 34,077	$ 34,077		$ 13,631	40%
P/T Deferred Comp	5035	Part-time employee deferred comp	$ 3,166		$ 1,823	$ 2,735		$ 821	30%
Quality of Life	5036	Quality of Life benefit	$ 1,028		$ 874	$ 1,311		$ 393	30%
Dental	5040	Dental plan	$ 748		$ 5,208	$ 5,208		$ 2,083	40%
Health Insurance	5050	Health insurance plan	$ 19,064		$ 17,574	$ 26,361		$ 10,544	40%
Life Insurance	5070	Life insurance plan	$ 166		$ 252	$ 378		$ 151	40%
Medicare Tax	5099	Medicare	$ 2,752		$ 1,779	$ 2,669		$ 1,068	40%
Utilities	5110	PG&E for San Antonio Club	$ 1,703		$ 1,307	$ 1,961		$ -	Budget relocated
Office Supplies	5160	Teacher office supplies	$ 525		$ 585	$ 804		$ 402	50%
Trainings and Meetings	5180	Training for new staff	$ -		$ -	$ -		$ -	Eliminated
Memberships	5181	National Association of Young Children & RAFT Memberships	$ 350		$ 427	$ 427		$ 214	50%
Building and Grounds Manitenance	5230	Building and grounds maintenance for San Antonio Club	$ 2,537		$ 871	$ 1,305		$ -	Budget relocated
Special Departmental Supplies	5260	Classroom supplies	$ 5,361		$ 2,119	$ 3,179		$ 1,590	50%
Liability Insurance	5420	City liability insurance	$ -		$ 14,417	$ 14,416		$ 7,208	50%
Direct Cost Total			$ 233,442		$ 211,988	$ 300,295	$ -	$ 128,002	
INDIRECT COSTS									
Janitorial		Contract cleaning expenses for San Antonio Club and Acorn Room (16.3% square ft share at CC)	$ 19,083			$ 19,083		$ 19,083	
Building and Grounds Manitenance		Community Center facility maintenance and repair cost (16.3% square ft. share of CC)	$ 2,651			$ 3,365		$ 3,008	
City Admin Costs*		Department administration costs including HR and Finance Department services	$ 32,682			$ 45,404		$ 17,920	
Indirect Cost Total			$ 54,416			$ 67,852		$ 40,011	
Total			$ 287,858			$ 368,147		$ 168,013	
*Administrative cost percentage from 2023 Cost of Service Analysis									
Program Total			$ (137,530)		$ (169,774)	(283,719)			

TINY TOTS (7320)	Object Code	Budget Detail	2023 Budget Actual		2024 Budget Actual (66% FY)	2024 Budget Expected (100% FY)		**Proposed TK Program**	Percentage of Previous Program
		REVENUE							
		FY 2022/23 Revenue Actual	**$ 150,328**						
		FY 2023/24 Revenue Actual (Through Jan)	**$ 42,214**						
		FY 2023/24 Revenue Estimated	**$ 84,428**						

With the elimination of the Playschool and Lunch and Play (LAP) programs the following reductions were made.

- -Full time staff and benefits reduced by 60%
- -Part Time Non-PERS reduced by 70%
- -Building and grounds maintenance and Utilities at San Antonio Club eliminated
- -Program supplies reduced by 50%

Kinder Prep (Ages 4-5) Fee Comparison - Student/Staff Ratio = 6/1	Resident	Non-Resident	Estimated Attendees	Total Revenue
Current Fees	$ 4,178	$ 5,012	16.00	$ 66,848
Proposed Fees - Direct Cost Recovery	$ 10,667	$ 12,790	12.00	$ 128,004
Proposed Fees - Full Cost Recovery	$ 14,002	$ 16,788	12.00	$ 168,024

Agenda Item # 7.

About TK

The bridge between preschool and Kindergarten for California's children

Thank you for visiting TKCalifornia, an online hub for finding easy-to-use resources for administrators, teachers, and parents as

California expands Transitional Kindergarten (TK) to serve all 4 olds. Many educators over the years have called for a developmentally appropriate grade for our youngest learners—now with the expansion of TK, California is on the cusp of achieving the vision of the **Master Plan for Early Learning and Care** (MPELC), which called for a year of publicly-funded preschool for all children in California.

On this site, you can find:

- **Resources for administrators** to help them navigate staffing, facilities, funding, and more as TK is expanded to more children.
- **Strategies and tools for teachers** on classroom management and developmentally appropriate practices.
- **Information for parents** on what to expect in a TK classroom and how they can help their child get the most out of their TK experience.

Benefits of TK

Transitional Kindergarten (TK) bridges the path between preschool and Kindergarten and gives students the gift of time that will help them build a strong foundation for future school success. It blends social and emotional experiences with academic learning, so that students not only learn essential pre-literacy, pre-math, and other cognitive skills, but also develop social and self-regulation skills needed to succeed in school and life.

TK is a win-win-win for children, families, and schools! With TK:

Agenda Item # 7.

- Children are better prepared to succeed.
- Families have an additional option to ensure their children enter Kindergarten with the maturity, confidence, and skills they need to excel.
- Schools benefit because children will be better prepared to succeed academically and less likely to be placed in special education or held back in later grades.

Research shows that the return on early investments in education is substantial. **According to Deborah Stipek**, former dean and a professor at the Stanford University School of Education, "the cost is paid back many times over in reduced grade retentions, special education services and in lower expenditures for incarceration. Returns also come in the form of the increased productivity that results from higher levels of academic achievement and high school completion rates."

See the latest TK news and events

Agenda Item # 7.

TK in the News

Events and Trainings

History of TK

In 2010, California implemented the **Kindergarten Readiness Act**, signed into law by Governor Arnold Schwarzenegger, which changed how Kindergarten was offered to children in California. **Early Edge California**, under its former name of Preschool California, sponsored the Kindergarten Readiness Act (**Senate Bill (SB) 1381**), which was authored by Senator Joe Simitian.

The 2010 Kindergarten Readiness Act changed the Kindergarten entry date from December 2nd to September 1st so that most children are five when they start Kindergarten (some children with

mid or late August birthdays may start Kindergarten and then five very shortly after). The law also established Transitional Kindergarten (TK), a developmentally appropriate grade to serve our youngest learners with birthdays between September and December.

Agenda Item # 7.

The 2015-16 state budget further clarified the law to allow school districts to enroll 4-year-olds in TK even if they turn 5 after the December cutoff date, providing another local option to get more children ready for Kindergarten. The Expanded TK approach gives districts an option to use a combination of local and Average Daily Attendance (ADA) funding to offer school readiness opportunities to children who might not otherwise have access.

The Road Ahead for TK

In 2021, Governor Gavin Newsom signed **Assembly Bill (AB) 130**, which will gradually expand Transitional Kindergarten (TK) over a four-year period, between the 2022-23 to 2025-26 school years, until

all 4-year-olds have the opportunity to attend a high-quality, developmentally appropriate TK program and enter Kindergarten prepared to learn and thrive.

About TKCalifornia

Early Edge California (formerly Preschool California) and a panel of experts worked together to develop TKCalifornia in 2012 to serve the needs of teachers and administrators as they implemented Transitional Kindergarten (TK). TKCalifornia is the result of a content creation and review process led by 20 experts from across the state, including local school districts, county offices of education, researchers, and state-level decision makers. Their expertise spans the areas of language and literacy development, early math, social-emotional development and executive function, culturally responsive education, and dual language acquisition.

In 2021, Early Edge California partnered with experts to update the materials on TKCalifornia to reflect the expansion to younger children and to ensure that all materials provide the most up-to-date information and recommendations.

The content and materials on this site are based upon the following key agreements and recommendations identified by our experts as critical to TK students' learning:

- Reflecting the continuum of development of all children, recognizing the breadth of their experience, and meeting them where they are to help them advance.

- Fostering warm, responsive relationships.
- Supporting family involvement.
- Offering examples of developmentally appropriate teaching practices.
- Providing concrete guidance for teachers by showing how to sequence instruction and presenting easy-to-use resources.
- Helping teachers understand the use of formative assessment.
- Supporting teachers in differentiating instruction.
- Articulating with preschool and Kindergarten.
- Focusing on the essential strands for teachers to build the foundation for Kindergarten success.
- Providing integrated learning and instruction.

TKCalifornia is operated and maintained by **Early Edge California**, a nonprofit advocacy organization dedicated to improving access to high-quality Early Learning experiences for all California children so they can have a strong foundation for future success.

TK in the News

City Council Agenda Report

Meeting Date: April 9, 2024
Initiated By: City Council
Prepared By: Anthony Carnesecca
Approved By: Gabriel Engeland

Subject:
Criteria for Art in Public Places

COUNCIL PRIORITY AREA

☐Business Communities
☐Circulation Safety and Efficiency
☐Environmental Sustainability
☐Housing
☐Neighborhood Safety Infrastructure
☒General Government

RECOMMENDATION

Discuss the Criteria for Art in Public Places.

POLICY QUESTION(S) FOR COUNCIL CONSIDERATION

- How would the City Council like to proceed with Art in Public Places?

FISCAL IMPACT

None

ENVIRONMENTAL REVIEW

Not applicable

PREVIOUS COUNCIL CONSIDERATION

July 10, 2018

SUMMARY

- City Council approved Ordinance No. 2018-446 establishing a development fee of 1% for public art, creating a Public Art Fund, and establishing requirements for inclusion of public art in private development projects.
- The Public Art Fund has historically expended funds used on the maintenance and acquisition of various art installations on City-owned, public property throughout the City.

BACKGROUND

On July 10, 2018, the City Council approved Ordinance No. 2018-446 establishing a development fee of 1% for public art, creating a Public Art Fund, and establishing requirements for inclusion of public art in private development projects.

This ordinance requires that private, non-commercial developers devote an amount not less than one percent (1%) of such costs for the acquisition and installation of publicly accessible art on the development site. At the discretion of the applicant, and in lieu of developing on-site public artwork, a Public Art in-lieu contribution of one percent (1%) may be placed into the Los Altos Public Art Fund to be used pursuant to Section 3.52.020. Such contribution shall not exceed two hundred $200,000.

This ordinance defines "publicly accessible art" as "art which can be reasonably viewed or experienced from the public right-of-way or to which access is unrestricted to members of the public at all times of day." This governs the acquisition and installation of art on private development sites.

This ordinance also created the Los Altos Public Art Fund, which is where all Public Art in-lieu contributions are deposited. These funds shall be restricted to implementation of the Los Altos Public Art Program. Per LAMC 3.52.020, these in lieu funds may only be used on the "acquisition, placement, maintenance, and promotion of temporary and permanent art and art programs on City-owned, public property throughout the City."

DISCUSSION/ANALYSIS

This means that the Public Art funds from Public Art in-lieu contributions may only be spent on art located on City-owned, public property.

The Public Art Fund has historically expended funds used on the maintenance and acquisition of various art installations on City-owned, public property throughout the City. In the past two fiscal years, the fund has been used to purchase sculptures, artwork informational signage, and complete maintenance on existing art installations.

As of March 29, 2024, the Public Art Fund has $433,631.04.

ATTACHMENTS

1. Ordinance No. 2018-446

ORDINANCE NO. 2018-446

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS ESTABLISHING A DEVELOPMENT FEE OF 1% FOR PUBLIC ART, CREATING A PUBLIC ART FUND AND ESTABLISHING REQUIREMENTS FOR INCLUSION OF PUBLIC ART IN PRIVATE DEVELOPMENT PROJECTS AND ADOPTING CEQA EXEMPTION FINDINGS

WHEREAS, public art enhances the quality of life in a community, fosters economic development and creates inventive and/or stimulating public spaces; and

WHEREAS, published data strongly indicates that cities with an active and dynamic cultural scene are more attractive to individuals and businesses; and

WHEREAS, public art provides an intersection between the past, present and future as well as between disciplines and ideas; and

WHEREAS, Los Altos can create diverse, interactive and engaging art experiences for the community with public art in the Civic Center, community plazas, parks, buildings and other public spaces throughout the City; and

WHEREAS, new development generally results in aesthetic impacts to a community; and

WHEREAS, as development and revitalization of real property in the City continues, the opportunity for creation of new cultural and artistic resources is diminished and the need to develop alternative sources for cultural and artistic outlets to improve the environment, image and character of the community is increased; and

WHEREAS, through the inclusion of public art or payment of an in-lieu fee, developers will address at least a portion of the aesthetic impact of their developments on the community by providing art or an in-lieu fee that can be used to increase the presence of art; and

WHEREAS, the provision of public art, or payment of a fee, will benefit the public interest, convenience, health safety and/or welfare and address the legitimate public concern of mitigating aesthetic impacts of development; and

WHEREAS, the legislative requirement to provide public art or an in-lieu fee generally applies broadly to all similarly situated private developers throughout the City and is a permissible land use regulation and a valid exercise of the City's traditional police power; and

WHEREAS, private, non-residential construction projects in the City of Los Altos can contribute to funding the creation, installation, maintenance and administration of public art for the enjoyment of residents and visitors; and

WHEREAS, on June 26, 2018, the City Council held a duly notice public meeting and all interested parties were provided an opportunity to comment on this ordinance; and

WHEREAS, this Ordinance is exempt from environmental review under the California Environmental Quality Act, Cal. Pub. Res. Code sections 21000, *et seq.* and the CEQA Guidelines, 1`4 Cal. Code Regs. Sections 15000, *et seq,* each as a separate and independent basis, for the reasons set forth in Section 4 of this Ordinance.

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE: Chapter 3.52 "Public Art Funding" is hereby added as follows:

"Chapter 3.52 – "Public Art Funding"

3.52.010 – Definitions

The definitions set forth in this Section shall govern the application and interpretation of this Chapter 3.52.

A. "Applicant" shall mean the property owner or developer who submits a development application to the City and their successors

B. "Publicly accessible art" shall mean art which can be reasonably viewed or experienced from the public right-of-way or to which access is unrestricted to members of the public at all times of day.

C. "Total construction costs" shall mean the valuation of the proposed structures or improvements, as calculated based on the most recent City of Los Altos Building Valuation Fee Schedule.

3.52.020 – Los Altos Public Art Fund

There is hereby created a Los Altos Public Art Fund, which funds shall be restricted to implementation of the Los Altos Public Art Program. Such funds may be used for the following purposes, including: acquisition, placement, maintenance, and promotion of temporary and permanent art and art programs on City-owned, public property throughout the City.

3.52.030 – Contribution Requirements

A. R1-10, R1-H, R1-20, R1-40. Private single-family developments within the R1-10, R1-H, R1-20 and R1-40 districts shall be exempt from the requirements of this chapter. Private, non-residential developments with total construction costs in excess of one million dollars ($1,000,000) and subject to design review approval within the R1-10, R1-H, R1-20 and R1-40 districts shall contribute an amount of one percent (1%) of construction costs to the Los Altos Public Art Fund to be used pursuant to Section 3.52.020. Such contribution shall not exceed two hundred thousand dollars ($200,000).

B. R3-4.5, R3-5, R-3-3, R3-1.8, R3-1. Private developments of four (4) or more units and subject to design review approval within the R3-4.5, R3-5, R-3-3, R3-1.8 and R3-1 districts shall contribute an amount of one percent (1%) of construction costs to the Los Altos Public Art Fund to be used pursuant to Section 3.52.020. Such contribution shall not exceed two hundred thousand dollars ($200,000). Construction costs for Below Market Rate units shall not be included in valuation.

C. OA, OA-1/OA-4.5, CN, CD, CRS, CT, CD/R3, CRS/OAD, PC, PCF, PUD. Private building developments with total construction costs in excess of one million dollars ($1,000,000) and subject to design review approval within the OA, OA-1/OA-4.5, CN, CD, CRS, CT, CD/R3, CRS/OAD, PC, PCF, and PUD districts shall devote an amount not less than one percent (1%) of such costs for the acquisition and installation of publicly accessible art on the development site. At the discretion of the applicant, and in lieu of developing on-site public artwork, a Public Art in-lieu contribution of one percent (1%) may be placed into the Los Altos Public Art Fund to be used pursuant to Section 3.52.020. Such contribution shall not exceed two hundred thousand dollars ($200,000). Costs directly attributable to construction for Affordable Housing units as defined by Section 14.28.020 shall not be included in valuation.

3.52.040 – Application procedures for placement of required public art on private property

An application for placement of public art on private property shall be submitted in a form and manner as prescribed by the Public Arts Commission staff liaison and shall include:

A. Preliminary sketches, photographs or other documentation of sufficient descriptive clarity to indicate the nature of the proposed public art;

B. An appraisal or other evidence of the value of the proposed public artwork, including acquisition and installation costs;

C. Preliminary plans containing such detailed information as may be required to adequately evaluate the location of the artwork in relation to the proposed development and its compatibility to the proposed development, including compatibility with the character of adjacent conforming developed parcels and existing neighborhoods; and

D. A detailed plan that demonstrates how the property owner or developer will maintain the artwork, including schedule, cost and manner of maintenance; and

E. A narrative statement or plan that demonstrates the public art will be displayed in a publicly accessible manner.

3.52.050 – Approval for placement of public art on private property

An application for placement of public art on private property submitted pursuant to Section 3.52.040 shall be reviewed by the Public Arts Commission for recommendation prior to final review of the application as a whole by the City Council. Public art on private property shall conform to standards adopted by Resolution of the City Council. A formal application for final placement of public art on private property shall be submitted to and approved by the Public Arts Commission prior to issuance of a building permit. Installation of public art on private property shall occur concurrent with project construction prior to issuance of final certificate of occupancy.

3.52.060 – Modification of an approved public art on private property application

For modifications to an approved application for public art on private property, the Public Arts Commission shall be the decision-making body. The action of the Public Arts Commission shall be final unless it is appealed in writing to the City Council within fifteen (15) days of the date of the action, and the appropriate fee is paid.

Any material damage to, or removal or replacement of public art installed pursuant to this Chapter shall require immediate written notification to the City and, within thirty (30) days thereof, full repair or in-kind replacement of same, or payment of a Public Art in-lieu contribution as defined in Section 3.52.030.

3.52.070 – Ownership of public art on private property; insurance
The installation or placement of public art on private property shall not constitute a donation to the City. Ownership of public art on private property shall continue with the applicant. The City shall bear no obligation nor assume any responsibility or liability with respect to the installation, operation or maintenance of any art installed on private property, which obligations, responsibilities and liabilities shall be borne by the property owner.

The property owner shall be required to carry insurance to cover the full replacement cost of the public art installed pursuant to this Chapter. Such insurance shall include coverage resulting from any loss or damage to, including but not limited to vandalism. The property owner shall, upon request of City, timely provide evidence of such insurance coverage to the City.

3.52.080 – Waiver.
Notwithstanding any other provision of this chapter, the requirement to install public art on private property or to pay a Public Art in-lieu contribution may be waived, adjusted or reduced by the City Council if an applicant demonstrates that there is no reasonable relationship between the impact of the proposed development and the requirement to install public art or to pay the Public Art in-lieu contribution, or that applying the requirements of this chapter would take property in violation of the United States Constitution or California Constitution or would result in any other constitutional result.

3.52.090 – Enforcement
The provisions of this chapter shall apply to all agents, successors and assigns of an applicant proposing or constructing a development governed by this chapter, or a property owner

with art installed governed by this chapter. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance herewith, including but not limited to, actions to revoke, deny or suspend any permit, including a development approval, building permit or certificate of occupancy. The City shall be entitled to costs and expenses for enforcement of the provisions of this chapter, or any agreement pursuant thereto, as awarded by the court, including reasonable attorneys' fees.

SECTION 2. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of any of the remaining portions of this code.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. **COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.** Based on all the evidence presented in the administrative record, including but not limited to the staff report for the proposed ordinance, the City Council hereby finds and determines that the proposed ordinance is exempt from CEQA review: (1) pursuant to CEQA Guidelines Sections 15050(c)(2) and 15061(b)(3) because it does not authorize any direct or indirect changes to the physical environment and there is no possibility of a significant effect on the environment; (2) because it is not a "project" for purposes of CEQA and is exempt pursuant to State CEQA Guidelines sections 15378(b)(2); (3) pursuant to CEQA Guidelines Section 15378(b)(4) because it constitutes a governmental fiscal activity that does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; (4) because it is not intended to apply to any specifically identified development project and as such it is speculative to evaluate any such future project now; and/or (5) because it is not intended to, nor does it, provide CEQA clearance for future development-related projects by mere establishment of the ordinance's requirements. Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

SECTION 5. NOTICE OF EXEMPTION. The City Council hereby directs City staff to prepare and file a Notice of Exemption with the County, County Clerk within five working days of the adoption of this ordinance.

SECTION 6. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 7. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on June 26, 2018 and was thereafter, at a regular meeting held on July 10, 2018 passed and adopted by the following vote:

AYES: MORDO, PEPPER, PROCHNOW
NOES: LEE ENG
ABSENT: BRUINS
ABSTAIN: NONE

____
Jean Mordo, MAYOR

Attest:

____
Jon Maginot, CMC, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA) CERTIFIED COPY OF ORDINANCE
CITY OF LOS ALTOS) SECOND READING/ADOPTION

I, Jon Maginot, City Clerk for the City of Los Altos in said County of Santa Clara, and State of California, do hereby certify that the attached is a true and correct copy of Ordinance No. 2018-446, adopted by the Los Altos City Council on July 10, 2018 by the following vote:

AYES: MORDO, PEPPER, PROCHNOW
NOES: LEE ENG
ABSTAIN: NONE
ABSENT: BRUINS

I hereby further certify that a summary of the ordinance was published in accordance with Government Code Section 36933 on the following dates: ____________, 2018 and _______________, 2018. Said ordinance shall be effective ____________________, 2018.

Dated this ____ day of ____________________, 2018.

____
Jon Maginot, CMC
City Clerk

City Council Agenda Report

Meeting Date: April 9, 2024
Initiated By: Council (Dailey, Fligor, Lee Eng)
Prepared By: Melissa Thurman
Approved By: Gabriel Engeland

Subject:
Discuss and Consider Taking Positions on Various Senate and Assembly Bills

COUNCIL PRIORITY AREA

☐Business Communities
☐Circulation Safety and Efficiency
☐Environmental Sustainability
☐Housing
☐Neighborhood Safety Infrastructure
☒General Government

RECOMMENDATION

Discuss and consider taking positions on various Senate and Assembly Bills

POLICY QUESTION(S) FOR COUNCIL CONSIDERATION

Shall the City Council Take a Formal Position on the Following Items:

- SB 1164 (Newman)
- AB 2814 (Low)
- AB 1886 (Alvarez)
- AB 1820 (Shiavo)
- AB 1779 (Irwin)
- SB 21 (Umberg)
- SB 1095 (Becker)
- SB 1130 (Bradford)
- AB 1999 (Irwin)
- AB 1772 (Ramos)
- AB 2619 (Connolly)
- AB 817 (Pacheco)

FISCAL IMPACT

None

ENVIRONMENTAL REVIEW
Not applicable

ATTACHMENTS

1. Bill Summaries

2024 Legislative Action Committee

Bills for Discussion and Consideration

Included are bill summaries, letters of support/opposition, and fact sheets as available for the following bills:

SB 1164 (Newman)
AB 2814 (Low)
AB 1820 (Shiavo)
AB 1886 (Alvarez)
SB 21 (Umberg)
AB 1779 (Irwin)
SB 1095 (Becker)
SB 1130 (Bradford)
AB 1999 (Irwin)
AB 1772 (Ramos)
AB 2619 (Connolly)
AB 817 (Pacheco)
AB 1794 (McCarty)

SB 1164 (Newman): **Revenue and Taxation**

Permits property owners to claim an exemption from property tax reassessment for ADU construction until 15 years have passed or when the property changes hands.

Summary:

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, “full cash value” is defined as the assessor’s valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred.This bill would exclude from classification as “newly constructed” and “new construction” the construction of an accessory dwelling unit, as defined, until 15 years have passed since construction on the accessory dwelling unit was completed or there is a subsequent change in ownership of the accessory dwelling unit. The bill would require the property owner to, prior to or within 30 days of completion of the project, notify the assessor that the property owner intends to claim the exclusion for an accessory dwelling unit and submit an affidavit stating that the owner shall make a good faith effort to ensure the unit will be used as residential housing for the duration the owner receives the exclusion. The bill would require the State Board of Equalization to prescribe the manner and form for claiming the exclusion and would require all additional documents necessary to support the exclusion to be filed by the property owner with the assessor not later than 6 months after the completion of the project. Because this bill would require an affidavit by a property owner and a higher level of service from county assessors, it would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

March 27, 2024

The Honorable Steven Glazer
Chair, Senate Revenue and Taxation Committee
1021 O Street, Ste. 7520
Sacramento, CA 95814

RE: **SB 1164 (Newman) Property taxation: new construction exclusion: dwelling units**
Notice of OPPOSE *(02/14/2024)*

Dear Chair Glazer,

The League of California Cities (Cal Cities) along with the California State Association of Counties (CSAC), and the California Special Districts Association (CSDA) must respectfully **oppose** SB 1164 (Newman), which would negatively impact local government property tax revenue by exempting newly constructed accessory dwelling units (ADUs) from property tax assessment, if certain conditions are met, for fifteen years from the date of completion or until the property changes owners, whichever comes first.

Since 2018, there have been year over year increases in the number of newly permitted and constructed ADUs throughout the state. According to data from the UC Berkeley Center for Innovation, from 2018 to 2022, roughly 10,276 ADUs were built, while 28,547 units were permitted during that same period. It is clear there is a demand for ADUs that California cannot keep pace with.

This bill assumes property taxes are an impediment that disincentivize homeowners from building ADUs. However, the data show significant increases in the number of permits and constructed units in previous years, signaling that property tax adjustments have not exclusively halted or discouraged construction on new ADUs. Separate from property tax, the disproportionate share of accessory dwelling units that have been permitted, but not yet built, represents a supply and demand concern that is wholly divorced from property tax considerations.

Recent legislative efforts aimed at increasing the statewide housing stock, like SB 9 (Atkins, 2021), helped spur the construction of ADUs by allowing for by-right approval of an ADU in a single-family residential zone. However, increasing the housing stock triggers demand for service delivery that local governments are responsible for providing. By creating a property tax assessment exemption on newly constructed ADUs, SB 1164 will deprive local governments of the revenues needed to provide and expand services that are of communitywide benefit. Property taxes generate a critical revenue source local governments depend on to provide services, including public safety, education, parks, libraries, public health, and fire protection.

While Cal Cities, CSAC, and CSDA support the intent to increase the production of housing across the state, local governments can ill-afford any additional erosion of local tax revenues in the short- or long-term. The negative fiscal impacts of this measure would be exclusively borne by local governments. We applaud the intent of the measure but have ongoing concerns with proposals that erode the local government tax base.

For these reasons, Cal Cities, CSAC, and CSDA respectfully **oppose** SB 1164. If you have any questions, do not hesitate to contact me at btriffo@calcities.org.

Ben Triffo
Legislative Affairs Lobbyist, Cal Cities

Eric Lawyer
Legislative Advocate, CSAC

Marcus Detwiler
Legislative Representative, CSDA

cc: The Honorable Josh Newman
Members, Senate Revenue and Taxation Committee
Colin Grinnell, Senate Revenue and Taxation Committee

AB 2814 (Low): Crimes: unlawful entry: intent to commit package theft

Makes it a crime to enter the vicinity of a home with the intent to commit theft of any packages shipped through the mail or delivered by public or private carrier.

Summary: Under existing law, a person who enters a house, room, apartment, or other specified structure, with intent to commit larceny or any felony, is guilty of burglary in the first or 2nd degree, as specified. Burglary in the first degree is punishable by imprisonment in the state prison for 2, 4, or 6 years, and burglary in the 2nd degree is punishable as a misdemeanor by imprisonment in a county jail not exceeding one year, or as a felony by imprisonment in a county jail for 16 months, or 2 or 3 years. This bill would prohibit a person from entering the curtilage of a home, as defined, with the intent to commit theft of a package shipped through the mail or delivered by a public or private carrier. The bill would make a violation of that prohibition punishable as either a misdemeanor or a felony, as specified. By creating a new crime, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

April 4, 2024

The Honorable Kevin McCarty
Chair, Assembly Committee on Public Safety
1020 N Street, Room 111
Sacramento, CA 95814

The Honorable Aisha Wahab
Chair, Senate Public Safety Committee
1020 N Street, Room 545
Sacramento, CA 95814

RE: Retail Theft Enforcement and Increased Penalties Legislation

Dear Assemblymember McCarty and Senator Wahab:

One of the League of California Cities' (Cal Cities) top advocacy priorities is to address crime and retail theft, organized retail theft and shoplifting. Our organization is pleased that the Assembly Public Safety Committee will be hearing a slate of bills to address the growing problem of retail theft in our state. As such, Cal Cities would like to identify a few bills that we believe would help to address the issue of providing critically needed tools of enforcement to combat retail theft.

As you may know, retail theft continues to be a problem in nearly all California communities. For example, commercial burglary is at the highest rate since 2008. In fact, according to the PPIC, commercial burglary increased statewide since 2020, especially in larger counties with an increase of 13% among 14 of the 15 largest counties. Rising theft is impacting every corner of California, and city officials need additional tools to reduce crime and improve the safety of their neighborhoods.

There are reforms needed to ensure that both apprehension rates of offenders improve and that those apprehended for more serious theft offenses meet meaningful consequences. Specifically, there are a several bills that would address these necessary reforms through increasing the certainty and severity of apprehension for retail theft offenses.

Therefore, we support the following bills:

> AB 1960 (Soria) Sentencing Enhancements: Property Loss.
> *(As Introduced on 1/29/2024)*
>
> AB 1990 (Carrillo) Criminal Procedure: Arrests: Shoplifting.
> *(As Amended on 3/18/2024)*

AB 2438 (Petrie-Norris) Property Crimes: Enhancements.
(As Introduced on 2/13/2024)

AB 2814 (Low) Crimes: Unlawful Entry: Intent to Commit Package Theft
(As Introduced on 2/15/2024)

AB 3209 (Berman) Crimes: Theft: Retail Theft Restraining Orders
(As Amended on 4/1/2024)

SB 1242 (Min) Crimes: Fires
(As Amended on 3/19/2024)

These bills propose several methods of increasing enforcement tools on the front end of our criminal justice system and increasing the penalties on the back end. These methods range from increasing ongoing funding of local and statewide enforcement programs, improving law enforcements' powers and arrest authority, creating new offenses, and adding sentencing enhancements for felonious offenses of retail theft.

While these individual bills are important to continuing to make progress on retail theft, these bills are only one part of a comprehensive solution that needs to include prevention, enforcement, and supervision. Cal Cities is part of a larger coalition of business, labor, law enforcement and local governments trying to address the increase in retail theft that is impacting so many Californians. Addressing enforcement tools and increased penalties are some of the methods that can help solve this growing problem, however additional changes are needed in order to make our communities safer.

For these reasons, Cal Cities **supports the bills listed above.** If you have any questions, do not hesitate to contact me at jvoorhis@calcities.org.

Sincerely,

Jolena Voorhis
Legislative Affairs, Lobbyist

cc: The Honorable Marc Berman
The Honorable Wendy Carrillo
The Honorable Evan Low
The Honorable Dave Min
The Honorable Cottie Petrie-Norris
The Honorable Esmeralda Soria
Members, Assembly Public Safety Committee

Members, Senate Public Safety Committee
Sandy Uribe, Chief Counsel, Assembly Public Safety Committee
Gary Olson, Consultant, Republican Caucus
Mary Kennedy, Chief Counsel, Senate Public Safety
Eric Csizmar, Consultant, Senate Republican Caucus

AB 1820 (Shiavo): Housing development projects: applications: fees and exactions

This bill requires local governments, upon determination that a housing project development application is complete, to produce the development proponent with an itemized list and total sum amount of all fees and exactions that will apply to the project within 10 days of the determination of completeness transmitted to the applicant.

Summary:

Existing law requires a city or county to deem an applicant for a housing development project to have submitted a preliminary application upon providing specified information about the proposed project to the city or county from which approval for the project is being sought. Existing law requires a housing development project be subject only to the ordinances, policies, and standards adopted and in effect when the preliminary application was submitted. This bill would authorize a development proponent that submits a preliminary application for a housing development project to request a preliminary fee and exaction estimate, as defined, and would require the local agency to provide the estimate within 20 business days of the submission of the preliminary application. For development fees imposed by an agency other than a city or county, the bill would require the development proponent to request the preliminary fee and exaction estimate from the agency that imposes the fee. This bill contains other related provisions and other existing laws.

April 4, 2024

The Honorable Chris Ward
Chair, Assembly Committee on Housing and Community Development
1020 N Street, Room 124
Sacramento, CA 95814

RE: AB 1820 (Schiavo) Housing Development Projects: Applications: Fees and Exactions
(As Amended 4/1/24)
Notice of Oppose Unless Amended

Dear Assemblymember Schiavo,

The League of California Cities (Cal Cities), California State Association of Counties (CSAC), Urban Counties of California (UCC), and the Rural County Representatives of California (RCRC) regretfully must take a position of oppose AB 1820 (Schiavo) unless it is amended to address our concerns. AB 1820 as currently drafted, would require all local agencies to provide within 20 days of a request by a developer, an itemized list and the total sum of all fees and exactions for a proposed development project during the preliminary application process.

Our organizations support the intent of the legislature to improve the transparency, predictability, and governance of impact fees, while preserving the ability to fund public facilities and other infrastructure in a manner flexible enough to meet the needs of California's varied and diverse communities, regardless of whether they are small or large, or rural or urban. Our organizations have participated in several stakeholder meetings to find areas of common agreement for improvements to California's laws related to development impact fees.

Since 2022, cities, counties, and special districts have been required to post fee schedules on their websites via Government Code Section 65940.1. In addition, fee schedules are a public record and are easily available upon request. The fee schedule lists the standard generally applicable fees for a specific project type that are common across all similar projects in a jurisdiction, however, it does not account for project-specific fees or CEQA mitigation measures which cannot be estimated during a preliminary application process. Project-specific fees vary on a project-by-project basis and cannot be determined before the project is fully designed and approved. Additionally, if the intent of AB 1820 is to provide an estimate of all fees associated with a specific development project, 20 days is not nearly enough time for local governments to estimate and provide the necessary materials to the project applicant. Finally, our organizations are concerned that local governments would be unable to charge fees after the preliminary application process, which is concerning as fees may differ from the preliminary estimate as construction begins to address necessary local infrastructure upgrades due to a new development project proposal.

Given the concerns listed above our organizations must respectfully oppose unless amended AB 1820. To help address our concerns, the author's office should specify that this measure would only apply to standardized general fees known at the time of the preliminary application and not apply to project-specific fees. Additionally, the author's office should consider extending the 20-day deadline to 45

business days instead. Finally, local governments need protections that the estimated fees and exactions are nonbinding and should be granted the authority to cover the cost of services provided by the local government for a new development project. Without these fees, local jurisdictions will be unable to provide the needed services.

We appreciate the author's interest in bringing this measure forward and remain concerned about the bill's costs to local governments. For these reasons, our organizations respectfully oppose unless amended AB 1820. If you have any questions, do not hesitate to contact Brady Guertin at Cal Cities, Chris Lee at UCC, Mark Neuburger at CSAC, or Tracy Rhine at RCRC.

Sincerely,

Brady Guertin
Legislative Affairs, Lobbyist
League of California Cities

Christopher Lee
Legislative Advocate, UCC

Mark Neuburger
Legislative Advocate
California State Association of Counties

Tracy Rhine
Senior Policy Advocate
Rural County Representatives of California

cc: The Honorable Pilar Schiavo
Members, Asm Housing and Community Development
Dori Ganetsos, Senior Consultant, Asm Committee on Housing and Community Development
William Weber, Policy Consultant, Assembly Republican Caucus

ASSEMBLYWOMAN PILAR SCHIAVO

AB 1820 – Developer Fee Transparency

Summary

AB 1820 is a "good government" measure that seeks to provide developers financial certainty and predictability when estimating the cost of local development impact fees on proposed housing projects. This measure requires local jurisdictions to timely provide an itemized list and estimated total sum amount of all fees and exactions that will apply to a residential development that has submitted a preliminary application.

Background

State law gives local jurisdictions broad authority to levy impact fees on builders. Unfortunately, those fees are often not easily identified prior to issuance of a permit and construction. Many jurisdictions practice a "pay-as-you-go" methodology as the project goes through the many phases of permitting and construction.

A 2018 study conducted by the Terner Center for Housing Innovation at the University of California, Berkeley, found that fees and exactions can amount to up to 18 percent of the median home price, that these fees and exactions are extremely difficult to estimate, and that fees and exactions continue to rise in California while decreasing nationally. Further, escalating fee and exaction costs make it more difficult for builders to deliver new housing for sale or rent at affordable prices.

The study found significant implications for the cost and delivery of new housing in California. Specifically, without standardized tools to estimate development fees, builders cannot accurately predict total project costs during the critical predevelopment phase.

Affordable housing projects can be subject to exorbitant fees that raise the cost of the building, reducing the already narrow margins that affordable housing developers work with and the unpredictability of these fees can delay or derail projects altogether.

AB 1483 (Grayson) aimed to remedy this uncertainty to some degree by requiring local agencies to post on their websites all fees imposed on a housing development projects. This measure was an attempt to prevent a "needle-in-a-haystack" approach in searching for the appropriate costs affiliated with the project. Unfortunately, a survey conducted by SPUR in 2021 found that "many jurisdictions have yet to come into compliance with AB 1483, as their websites often have incomplete or unreliable information regarding development fees and requirements."

Current Law

(GOV § 65940.1) Details the requirements of cities, counties, or special districts to list on their websites their current schedule of fees, exactions, and affordability requirements imposed by the city, county, or special district, including any dependent special districts, as defined.

This Bill

AB 1820 will:

1) Allow developers to request a good-faith estimate of fee and exaction statement estimate from their local jurisdiction.
2) Require a local entity to provide a fee estimate within 10 business days of the submission of a preliminary project application.

Support

- San Francisco Bay Area Planning and Urban Research Association (SPUR) (Sponsor)
- California Building Industry Association (CBIA) (Sponsor)
- California YIMBY (Co-Sponsor)

For More Information

Ravi Kahlon, Legislative Aide
Office of Assemblywoman Schiavo
Ravi.Kahlon@asm.ca.gov or (916) 319-2040

AB 1886 (Alvarez): Housing Element Law: substantial compliance: Housing Accountability Act

Clarifies that the builder's remedy is applicable to cities and counties that have not received official certification of housing element compliance from HCD. Additionally creates a rebuttable presumption of the validity of HCD's findings as to whether an adopted element or amendment complies with housing law.

Summary: The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. Existing law, commonly referred to as the Housing Element Law, prescribes requirements for a city's or county's preparation of, and compliance with, its housing element, and requires the Department of Housing and Community Development to review and determine whether the housing element substantially complies with the Housing Element Law, as specified. If the department finds that a draft housing element or amendment does not substantially comply with the Housing Element Law, existing law requires the legislative body of the city or county to either (A) change the draft element or amendment to substantially comply with the Housing Element Law or (B) adopt the draft housing element or amendment without changes and make specified findings as to why the draft element or amendment substantially complies with the Housing Element Law despite the findings of the department. Existing law requires a planning agency to promptly submit an adopted housing element or amendment to the department and requires the department to review the adopted housing element or amendment and report its findings to the planning agency within 60 days. This bill would require a planning agency that makes the above-described findings as to why a draft housing element or amendment substantially complies with the Housing Element Law despite the findings of the department to submit those findings to the department. The bill would require the department to review those finding in its review of an adopted housing element or amendment. The bill would create a rebuttable presumption of validity for the department's findings as to whether the adopted element or amendment substantially complies with the Housing Element Law. Because the bill would require planning agencies to submit specified findings to the department with an adopted housing element or amendment, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

April 4, 2024

The Honorable Chris Ward
Chair, Assembly Housing and Community Development Committee
1020 N St, Room 124
Sacramento, CA 95814

RE: **AB 1886 (Alvarez) Housing Element Law: Substantial Compliance**
Notice of Opposition *(As of April 1, 2024)*

Dear Chair Ward,

The League of California Cities (Cal Cities) regretfully must oppose **AB 1886 (Alvarez)**, because it turns its back to a fundamental provision of housing element law: A city may disagree with HCD; explain why its housing element is in substantial compliance with the law; and then adopt that housing element which is thereafter considered "in substantial compliance with housing element law."

For decades, cities have worked with HCD to draft housing plans that accommodate their fair share of housing at all income levels. These extensive and complex plans can take years to develop, include public involvement and engagement, and environmental review. Cities go to great lengths to ensure that their housing element substantially complies with the law, even if HCD disagrees. Current law acknowledges this fact by allowing cities to "self-certify" their housing element or take the issue to court and have a judge make the final determination of substantial compliance.

AB 1886 encourages "builder's remedy" projects by eliminating self-certification for the purpose of what it means to have a housing element "in substantial compliance with the law." The "builder's remedy" allows a developer to choose any site other than a site that is identified for very low-, low-, or moderate-income housing, and construct a project that is inconsistent with both the city's general plan and zoning. AB 1886 facilitates such projects for those cities that have a good faith disagreement based in substantial evidence.

Cal Cities believes that AB 1886 is counterproductive. What is really needed is for HCD to partner with cities to provide meaningful direction that helps them finalize their housing elements and put those plans to work so that much needed housing construction can occur. For these reasons, Cal Cities respectfully **opposes** AB 1886. If you have any questions, do not hesitate to contact me at bguertin@calcities.org.

Sincerely,

Brady Guertin
Legislative Affairs, Lobbyist

CC: The Honorable David A. Alvarez
Members, Assembly Committee on Housing and Community Development
Lisa Engel, Chief Consultant, Assembly Committee on Housing and Community Development
William Weber, Assembly Republican Caucus

SB 21 (Umberg): Controlled Substances

This measure would require a person who is convicted of crimes related to controlled substances to receive a written advisory of the danger of manufacturing or distribution of controlled substances and that, if a person dies because of that action, the distributor can be charged with voluntary manslaughter or murder.

Summary: Existing law makes it a crime to possess for sale or purchase for purpose of sale, transport, or sell, various controlled substances, including, among others, fentanyl. This bill would require a person who is convicted of, or who pleads guilty or no contest to, the above-described crimes as they relate to fentanyl to receive a written advisory of the danger of distribution of controlled substances and that, if a person dies as a result of that action, the distributor can be charged with homicide or murder. The bill would require that the fact the advisory was given be on the record and recorded on the abstract of the conviction. This bill would authorize a defendant who is charged with the above-described crimes to undergo a treatment program in lieu of a grant of probation or a jail or prison sentence if certain conditions are met. The bill would require the treatment program to be developed by a drug addiction expert and would authorize a defendant to participate in a substance abuse and mental health evaluation. The bill would make any statement or information from the evaluation inadmissible in any action or proceeding. The bill would require the drug treatment program to be approved by the court and could include mental health treatment and job training. The bill would require the court to dismiss the charges upon successful completion of the treatment program.

LEAGUE OF CALIFORNIA CITIES

April 8, 2024

The Honorable Tom Umberg
Member, California State Senate
1021 O Street, Room 6530
Sacramento, CA 95814

RE: **SB 21 (Umberg) Controlled Substances.**
Notice of SUPPORT *(as Amended on January 17, 2024)*

Dear Senator Umberg,

The League of California Cities (Cal Cities) is pleased to **support** your measure **SB 21 (Umberg)**. This measure would require a person who is convicted of fentanyl-related drug offenses to receive a written advisory of the danger of manufacturing or distribution of controlled substances and that, if a person dies because of that action, the manufacturer or distributor can be charged with voluntary manslaughter or murder.

A recent study by the Center for Disease Control (CDC) names fentanyl the deadliest drug in the United States. Fentanyl is often disguised as other synthetic opioids or drugs, then sold on the street to users who are unaware that fentanyl is a key ingredient. Users who unknowingly ingest these substances believing they are taking a less powerful drug are much more susceptible to overdose or even death. When abused, fentanyl affects the brain and nervous system and is 50 times stronger than heroin and 100 times stronger than morphine.

With respect to deaths resulting from driving under the influence (DUI), the California Supreme Court held in People v. Watson (1981), 30 Cal.3d 290, 298, in affirming a second-degree murder conviction, that "when the conduct in question can be characterized as a wanton disregard for life, and the facts demonstrate a subjective awareness of the risk created, malice may be implied." To codify this notion, California Vehicle Code §23593 was implemented in 2004 to require that courts read an admonishment to anyone convicted of reckless driving or DUI to inform them of the state's ability and intent to charge a repeated future offense with manslaughter or murder.

Existing law makes it unlawful to sell, traffic, or transport specified opiates and opiate derivatives including fentanyl. SB 21 authorizes a defendant who is charged with those offenses the ability to undergo a treatment program in lieu of a jail or prison sentence if certain conditions are met. This seeks to maximize the access to rehabilitative and treatment programs for Californians.

For these reasons, Cal Cities **supports** SB 21 (Umberg). If you have any questions, do not hesitate to contact me at jvoorhis@calcities.org.

Sincerely,

Jolena Voorhis
Legislative Affairs, Lobbyist

Cc: Members, Public Safety Committee

AB 1779 (Irwin): Crime: Jurisdiction

Removes the requirement that theft crimes be jurisdictionally limited to prosecutorial actions brought by the Attorney General. Requires that all district attorneys in counties with jurisdiction over the crimes agree to the venue. Without agreement, the crime would be returned to the original jurisdiction.

Summary:

Existing law defines types of theft, including petty theft, grand theft, and shoplifting. Existing law also defines the crimes of robbery and burglary. Existing law sets forth specific rules relating to the jurisdiction for the prosecution of theft by fraud, organized retail theft, and receiving stolen property, including that the jurisdiction for prosecution includes the county where an offense involving the theft or receipt of the stolen merchandise occurred, the county in which the merchandise was recovered, or the county where any act was done by the defendant in instigating, procuring, promoting, or aiding or abetting in the commission of a theft offense or other qualifying offense. Existing law jurisdictionally limits prosecution of each of the above to criminal actions brought by the Attorney General. This bill would no longer limit the jurisdictional rules for the above crimes to criminal actions brought by the Attorney General. If a case is brought by someone other than the Attorney General, the bill would require the prosecution to present written evidence in the jurisdiction of the proposed trial that all district attorneys in counties with jurisdiction over the offenses agree to the venue. The bill would require charged offenses from jurisdictions where there is not a written agreement from the district attorney to be returned to that jurisdiction.

April 4, 2024

The Honorable Kevin McCarty
Chair, Assembly Committee on Public Safety
1020 N Street, Room 111
Sacramento, CA 95814

The Honorable Aisha Wahab
Chair, Senate Public Safety Committee
1020 N Street, Room 545
Sacramento, CA 95814

RE: Retail Theft Aggregation and Multi-Jurisdictional Legislation

Dear Assemblymember McCarty and Senator Wahab,

One of the League of California Cities' (Cal Cities) top advocacy priorities is to address crime and retail theft, organized retail theft and shoplifting. Our organization is pleased that both houses of the Legislature have made this issue a priority in 2024. As such, Cal Cities would like to identify a few bills that we believe would help to address the issue of aggregating multiple retail theft offenses across a multi-jurisdictional area.

As you may know, retail theft continues to be a problem in nearly all California communities. For example, commercial burglary is at the highest rate since 2008. In fact, according to the PPIC, commercial burglary increased statewide since 2020, especially in larger counties with an increase of 13% among 14 of the 15 largest counties. To address rising theft, city officials need additional tools to reduce crime and improve the safety of their neighborhoods.

It has become common for offenders to try to avoid higher charges, such as grand theft, by stealing small amounts of items they know are under $950 across several retail businesses. Current law provides that multiple thefts can be aggregated to one charge if these incidents can be proven to be "one intention, one general impulse, and one plan." Unfortunately, this law is limited in scope and Cal Cities strongly believes it needs strengthening.

Improved aggregation laws for multiple incidents of theft will not be helpful without active prosecution of cases across several jurisdictions. Expanding coordination and abilities of District Attorneys to work together to prosecute theft offenses that occur in several counties will ensure offenders are held accountable.

Therefore, we support the following bills:

> AB 1779 (Irwin) Theft: Jurisdiction.
> *(As Amended on 3/11/2024)*
>
> AB 1794 (McCarty) Crimes: Larceny
> *(As Amended on 4/1/2024)*

These bills propose several methods of ensuring and clarifying the process of multi-jurisdictional prosecution as well as aggregation of multiple theft incidents with several victims.

While these individual bills are important in order to continue to make progress on retail theft, these bills are only one part of a comprehensive solution that needs to include prevention, enforcement, and supervision. Cal Cities is part of a larger coalition of business, labor, law enforcement and local governments trying to address the increase in retail theft that is impacting so many Californians. Addressing aggregation of multiple theft offenses and cross-county prosecution of offenses are some of the methods that can help solve this growing problem, however additional changes are needed in order to make our communities safer.

For these reasons, Cal Cities **supports the bills listed above.** If you have any questions, do not hesitate to contact me at jvoorhis@calcities.org.

Sincerely,

Jolena Voorhis
Legislative Affairs, Lobbyist

cc: The Honorable Jacqui Irwin
The Honorable Kevin McCarty
Members, Assembly Public Safety Committee
Members, Senate Public Safety Committee
Sandy Uribe, Chief Counsel, Assembly Public Safety Committee
Gary Olson, Consultant, Republican Caucus
Mary Kennedy, Chief Counsel, Senate Public Safety
Eric Csizmar, Consultant, Senate Republican Caucus

SB 1095 (Becker) Cozy Homes Cleanup Act: building standards: gas-fuel-burning appliances

Prohibits mobile home parks and homeowner associations from instituting barriers to electric appliances

Summary: Existing law, the Manufactured Housing Act of 1980 (the “act”), requires the Department of Housing and Community Development to enforce various laws pertaining to the structural, fire safety, plumbing, heat-producing, or electrical systems and installations or equipment of a manufactured home, mobilehome, commercial coach, or special purpose commercial coach. The act defines “manufactured home” and “mobilehome” to mean a structure that meets specified requirements, including that the structure is transportable in one or more sections and is 8 body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected onsite, is 320 or more square feet, and includes the plumbing, heating, air-conditioning, and electrical systems contained within the structure.This bill would extend those provisions to also apply to electric water heaters and electric appliances for comfort heating that are not specifically listed for use in a manufactured home or mobilehome. This bill contains other related provisions and other existing laws.

SB 1130 (Bradford) Electricity: Family Electric Rate Assistance: reports

Would require the Public Utilities Commission, by June 1, 2025, and each year thereafter, to review each electrical corporation's report to ensure it has sufficiently enrolled eligible households in the FERA program commensurate with the proportion of households the commission determines to be eligible within the electrical corporation's service territory.

Summary: Existing law vests the Public Utilities Commission with regulatory authority over public utilities, including electrical corporations. Existing law requires the commission to continue a program of assistance to residential customers of the state's 3 largest electrical corporations consisting of households of 3 or more persons with total household annual gross income levels between 200% and 250% of the federal poverty guideline level, which is referred to as the Family Electric Rate Assistance or FERA program.This bill would expand eligibility for the FERA program by eliminating the requirement that a household consist of 3 or more persons. The bill would require the commission, by March 1, 2025, and each year thereafter, to require the state's 3 largest electrical corporations to report on their efforts to enroll customers in the FERA program. This bill would require the commission, by June 1, 2025, and each year thereafter, to review each electrical corporation's report to ensure it has sufficiently enrolled eligible households in the FERA program commensurate with the proportion of households the commission determines to be eligible within the electrical corporation's service territory. If the commission, in its review of a report, determines an electrical corporation has not sufficiently enrolled eligible households in the FERA program, the bill would require the commission to require the electrical corporation to develop a strategy and plan to sufficiently enroll eligible households within 3 years of the adoption of the strategy and plan. This bill contains other related provisions and other existing laws.

AB 1999 (Irwin) Electricity: Income Graduated Fixed Charges

Summary:

Existing law vests the Public Utilities Commission with regulatory authority over public utilities, including electrical corporations. Existing law authorizes the commission to adopt new, or expand existing, fixed charges, as defined, for the purpose of collecting a reasonable portion of the fixed costs of providing electrical service to residential customers. Under existing law, the commission may authorize fixed charges for any rate schedule applicable to a residential customer account. Existing law requires the commission, no later than July 1, 2024, to authorize a fixed charge for default residential rates. Existing law requires these fixed charges to be established on an income-graduated basis, with no fewer than 3 income thresholds, so that low-income ratepayers in each baseline territory would realize a lower average monthly bill without making any changes in usage. This bill would repeal the provisions described in the preceding paragraph. The bill would instead permit the commission to authorize fixed charges that, as of January 1, 2015, do not exceed $5 per residential customer account per month for low-income customers enrolled in the California Alternate Rates for Energy (CARE) program and that do not exceed $10 per residential customer account per month for customers not enrolled in the CARE program. The bill would authorize these maximum allowable fixed charges to be adjusted by no more than the annual percentage increase in the Consumer Price Index for the prior calendar year, beginning January 1, 2016. This bill contains other related provisions and other existing laws.

AB 1772 (Ramos): Theft

Related to theft crimes, the bill states that if the value of property taken exceeds $950 over the course of distinct but related acts, the thefts may properly be aggregated to charge a defendant with grand theft.

Summary: Existing law makes theft a crime, and distinguishes between grand theft and petty theft. Existing law makes the theft of money, labor, or property petty theft punishable as a misdemeanor, whenever the value of the property taken does not exceed $950. Under existing law, if the value of the property taken exceeds $950, the theft is grand theft, punishable as a misdemeanor or a felony. Existing law makes a first conviction for petty theft involving merchandise taken from a merchant's premises punishable by a mandatory fine and as a misdemeanor. This bill would require the Department of Justice to determine the number of misdemeanor convictions for a crime of theft for which the property was taken from a retail establishment during the Governor's declared state of emergency related to the COVID-19 pandemic, and to report that information to the Legislature on or before January 1, 2026.

April 5, 2024

The Honorable Kevin McCarty
Chair, Assembly Public Safety Committee
1020 N Street, Room 111
Sacramento, CA 95814

RE: **AB 1772 (Ramos) Theft.**
Notice of SUPPORT *(As Amended on April 3, 2024)*

Dear Assemblymember McCarty,

The League of California Cities (Cal Cities) is pleased to **support** AB 1772 (Ramos), which would require the Department of Justice to conduct a study to determine the number of misdemeanor convictions for a theft offense when property was taken from a retail business during the COVID-19 state of emergency.

As you may know, retail theft continues to be a problem in nearly all California communities. For example, commercial burglary is at the highest rate since 2008. In fact, according to the PPIC, commercial burglary increased statewide since 2020, especially in larger counties with an increase of 13% among 14 of the 15 largest counties. Rising theft is impacting every corner of California, and city officials need additional tools to reduce crime and improve the safety of their neighborhoods.

This bill would require the Department of Justice on January 1, 2026 to report to the Legislature the number of misdemeanor convictions for retail theft during the Governor's declared state of emergency during the COVID-19 pandemic. This would allow the Legislature to identify the rate of convictions misdemeanor retail theft offenses during a time related to a surge of theft rates.

While AB 1772 (Ramos) is important to continuing to make progress on retail theft, this bill is only one part of a comprehensive solution that needs to include prevention, enforcement, and supervision. Cal Cities is part of a larger coalition of business, labor, law enforcement and local governments trying to address the increase in retail theft that is impacting so many Californians. Identifying the rate of theft in comparison to the rate of conviction is just one of the methods that can help solve this growing problem and make our communities safer.

For these reasons, Cal Cities **supports** AB 1772 (Ramos). If you have any questions, do not hesitate to contact me at jvoorhis@calcities.org.

Sincerely,

Jolena Voorhis
Legislative Affairs, Lobbyist

cc: The Honorable James Ramos
Members, Assembly Public Safety Committee
Liah Burnley, Counsel, Assembly Public Safety Committe
Gary Olson, Consultant, Assembly Republican Caucus

AB 2619 (Connolly): Net Energy Metering

Summary: Existing law vests the Public Utilities Commission with regulatory authority over public utilities, including electrical corporations. Existing law requires every electric utility, defined to include electrical corporations, local publicly owned electric utilities, and electrical cooperatives, to develop a standard contract or tariff for net energy metering, as defined, for generation by a renewable electrical generation facility, as defined, and to make this contract or tariff available to eligible customer-generators, as defined, upon request on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer generators exceeds 5% of the electric utility's aggregate customer peak demand. Existing law requires the commission to have developed a 2nd standard contract or tariff for each large electrical corporation, as defined, to provide net energy metering to additional eligible customer-generators in the electrical corporation's service territory and imposes no limitation on the number of new eligible customer-generators entitled to receive service pursuant to this 2nd standard contract or tariff. Existing law requires the commission, in developing the 2nd standard contract or tariff, to ensure that customer-sited renewable distributed generation continues to grow sustainably and to include specific alternatives designed for growth among residential customers in disadvantaged communities. Existing law authorizes the commission to revise the 2nd standard contract or tariff as appropriate. Pursuant to that authorization, the commission has instituted rulemakings and issued decisions relating to the 2nd standard contract or tariff. This bill would require all eligible customer-generators of large electrical corporations receiving service under the 2nd standard contract or tariff to be subject to a specified version of the tariff developed by the commission in a specified rulemaking. The bill would require the commission to develop a new standard contract or tariff providing for net energy metering for eligible customer-generators of large electrical corporations, and would require every other electric utility to revise its standard contract or tariff providing for net energy metering. The bill would require every electric utility to make the standard contract or tariff available to all new eligible customer-generators beginning on January 1, 2027. By adding new duties on local publicly owned electric utilities, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

AB 817 (Pacheco) Open meetings: teleconferencing: subsidiary body.

This measure would remove barriers to entry for appointed and elected office by allowing nondecision-making legislative bodies to participate in two-way virtual teleconferencing without posting their location.

Summary: Existing law, the Ralph M. Brown Act, requires, with specified exceptions, each legislative body of a local agency to provide notice of the time and place for its regular meetings and an agenda containing a brief general description of each item of business to be transacted. The act also requires that all meetings of a legislative body be open and public, and that all persons be permitted to attend unless a closed session is authorized. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. Existing law authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency (emergency provisions) and, until January 1, 2026, in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met (nonemergency provisions). Existing law imposes different requirements for notice, agenda, and public participation, as prescribed, when a legislative body is using alternate teleconferencing provisions. The nonemergency provisions impose restrictions on remote participation by a member of the legislative body and require the legislative body to specific means by which the public may remotely hear and visually observe the meeting. This bill, until January 1, 2026, would authorize a subsidiary body, as defined, to use similar alternative teleconferencing provisions and would impose requirements for notice, agenda, and public participation, as prescribed. In order to use teleconferencing pursuant to this act, the bill would require the legislative body that established the subsidiary body by charter, ordinance, resolution, or other formal action to make specified findings by majority vote, before the subsidiary body uses teleconferencing for the first time and every 12 months thereafter. This bill contains other related provisions and other existing laws.

FLOOR ALERT

On behalf of the California Association of Recreation and Park Districts (CARPD), League of California Cities (CalCities), Urban Counties of California (UCC), Rural County Representative of California (RCRC), California State Association of Counties (CSAC), and California Association of Public Authorities for IHSS (CAPA-IHSS), we are pleased to sponsor this important legislation and ask for your AYE vote to remove barriers to entry into civic leadership.

We and the above organizations write to express our strong support for AB 817.

- This measure would remove barriers to entry for appointed and elected office by allowing non-decision-making legislative bodies that do not have the ability to take final action to participate in two-way virtual teleconferencing without posting location.

- Local governments across the state have faced an ongoing challenge to recruit and retain members of the public on advisory bodies, boards, and commissions.

- Challenges associated with recruitment have been attributed to participation time com[...] time and location of meetings, physical limitation, conflicts with childcare, and work obligations.

- The COVID-19 global pandemic drove both hyper-awareness and concerns about the spread of infectious diseases, as well as removed barriers to local civic participation by allowing this same remote participation. This enabled individuals who could not otherwise accommodate the time, distance, or mandatory physical participation requirements to engage locally, providing access to leadership opportunities and providing communities with greater diversified input on critical community proposals.

- Existing law (Stats. 1991, Ch. 669) declares "a vast and largely untapped reservoir of talent exists among the citizenry of the State of California, and that rich and varied segments of this great human resource are, all too frequently, not aware of the many opportunities which exist to participate in and serve on local regulatory and advisory boards, commissions, and committees." Under the Local Appointments List, also known as Maddy's Act, this information must be publicly noticed and published. **However, merely informing the public of the opportunity to engage is not enough: addressing barriers to entry to achieve diverse representation in leadership furthers the Legislature's declared goals of equal access and equal opportunity.**

- Diversification in civic participation at all levels requires careful consideration of different protected characteristics as well as socio-economic status.

- The in-person requirement to participate in local governance bodies presents a disproportionate challenge for those with physical or economic limitations, including seniors, persons with disability, single parents and/or caretakers, economically marginalized groups, and those who live in rural areas and face prohibitive driving distances. Participation in local advisory bodies and appointed boards and commissions often serves as a pipeline to local elected office and opportunities for state and federal leadership positions.

- **AB 817 would help address these issues by providing a narrow exemption under the Ralph M. Brown Act for non-decision-making legislative bodies that do not take final action on any legislation, regulations, contracts, licenses, permits, or other entitlements, so that equity in opportunity to serve locally and representative diversity in leadership can be achieved.**

AB 817 IS WORKING WITH THE LOCAL GOVERNMENT COMMITTEE AND LEGISLATIVE COUNSEL TO ALIGN ITS PROVISIONS WITH ALL OF THE TELECONFERENCING PROVISIONS THAT APPLY TO ADVISORY BODIES AS PASSED IN SB 544 (LAIRD) LAST YEAR, INCLUDING PROVIDING A PHYSICAL LOCATION FOR THE PUBLIC TO HEAR, SEE, AND PARTICIPATE FROM.

WE ASK FOR YOUR "AYE" VOTE ON AB 817 TO REMOVE BARRIERS TO ENTRY INTO CIVIC PARITICPATION AT THE LOCAL LEVEL AND INCREASE REPRESENTATION ON IMPORTANT ADVISORY ONLY BOARDS AND COMMITTEES.

AB 1794 (McCarty): Public Safety: Larceny

Summary: Existing law, the Safe Neighborhoods and Schools Act, enacted as an initiative statute by Proposition 47, as approved by the electors at the November 4, 2014, statewide general election, makes the theft of money, labor, or property petty theft punishable as a misdemeanor, whenever the value of the property taken does not exceed $950. Under existing law, if the value of the property taken exceeds $950, the theft is grand theft, punishable as a misdemeanor or a felony. Proposition 47 requires shoplifting, defined as entering a commercial establishment with the intent to commit larceny if the value of the property taken does not exceed $950, to be punished as a misdemeanor. Under existing law, if the value of all property taken over the course of distinct but related acts motivated by one intention, general impulse, and plan exceeds $950, those values may be aggregated into a single charge of grand theft. This bill would clarify that those values may be aggregated even though the thefts occurred in different places or from different victims. The bill would also, declarative of existing law, provide that circumstantial evidence may be used to prove that multiple thefts were motivated by one intention, general impulse, and plan. The bill would, until January 1, 2030, also authorize counties to operate a program to allow retailers to submit details of alleged shoplifting directly to the county district attorney through an online portal on the district attorney's internet website. The bill would require counties that participate in the program to conduct an evaluation and collect specified information, and to report that information to the Department of Justice, as specified. This bill contains other existing laws.

April 4, 2024

The Honorable Kevin McCarty
Chair, Assembly Committee on Public Safety
1020 N Street, Room 111
Sacramento, CA 95814

The Honorable Aisha Wahab
Chair, Senate Public Safety Committee
1020 N Street, Room 545
Sacramento, CA 95814

RE: Retail Theft Aggregation and Multi-Jurisdictional Legislation

Dear Assemblymember McCarty and Senator Wahab,

One of the League of California Cities' (Cal Cities) top advocacy priorities is to address crime and retail theft, organized retail theft and shoplifting. Our organization is pleased that both houses of the Legislature have made this issue a priority in 2024. As such, Cal Cities would like to identify a few bills that we believe would help to address the issue of aggregating multiple retail theft offenses across a multi-jurisdictional area.

As you may know, retail theft continues to be a problem in nearly all California communities. For example, commercial burglary is at the highest rate since 2008. In fact, according to the PPIC, commercial burglary increased statewide since 2020, especially in larger counties with an increase of 13% among 14 of the 15 largest counties. To address rising theft, city officials need additional tools to reduce crime and improve the safety of their neighborhoods.

It has become common for offenders to try to avoid higher charges, such as grand theft, by stealing small amounts of items they know are under $950 across several retail businesses. Current law provides that multiple thefts can be aggregated to one charge if these incidents can be proven to be "one intention, one general impulse, and one plan." Unfortunately, this law is limited in scope and Cal Cities strongly believes it needs strengthening.

Improved aggregation laws for multiple incidents of theft will not be helpful without active prosecution of cases across several jurisdictions. Expanding coordination and abilities of District Attorneys to work together to prosecute theft offenses that occur in several counties will ensure offenders are held accountable.

Therefore, we support the following bills:

> <u>AB 1779 (Irwin) Theft: Jurisdiction.</u>
> <u>*(As Amended on 3/11/2024)*</u>
>
> <u>AB 1794 (McCarty) Crimes: Larceny</u>
> <u>*(As Amended on 4/1/2024)*</u>

These bills propose several methods of ensuring and clarifying the process of multi-jurisdictional prosecution as well as aggregation of multiple theft incidents with several victims.

While these individual bills are important in order to continue to make progress on retail theft, these bills are only one part of a comprehensive solution that needs to include prevention, enforcement, and supervision. Cal Cities is part of a larger coalition of business, labor, law enforcement and local governments trying to address the increase in retail theft that is impacting so many Californians. Addressing aggregation of multiple theft offenses and cross-county prosecution of offenses are some of the methods that can help solve this growing problem, however additional changes are needed in order to make our communities safer.

For these reasons, Cal Cities **supports the bills listed above.** If you have any questions, do not hesitate to contact me at jvoorhis@calcities.org.

Sincerely,

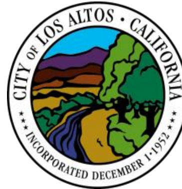
Jolena Voorhis
Legislative Affairs, Lobbyist

cc: The Honorable Jacqui Irwin
The Honorable Kevin McCarty
Members, Assembly Public Safety Committee
Members, Senate Public Safety Committee
Sandy Uribe, Chief Counsel, Assembly Public Safety Committee
Gary Olson, Consultant, Republican Caucus
Mary Kennedy, Chief Counsel, Senate Public Safety
Eric Csizmar, Consultant, Senate Republican Caucus

City of Los Altos 2024 Tentative Council Agenda Calendar

April 30, 2024 Closed Session: TBD Study Session: Development Impact Fees		
AGENDA TITLE:	**DEPARTMENT:**	**PRIORITY:**
SPECIAL ITEMS:		
Proclamation recognizing May as Bike Month	PWS	
CONSENT:		
Adoption of ADU Ordinance	Dev. Svcs.	Housing
Adopt a resolution regarding the San Antonio Rd project (OBAG 3)	PWS	Streets
PUBLIC HEARING:		
425 1st Street – Modification Request	Dev. Svcs.	Housing
DISCUSSION ITEMS:		
Sourcewise Senior Care Board Seat Representative	P&R	General
Community Center Café	P&R	General
Special Events	CMO	General

All items and dates are tentative and subject to change unless a specific date has been noticed for a legally required Public Hearing.
Items may be added or removed from the shown date at any time and for any reason prior to the publication of the agenda.



City of Los Altos 2024 Tentative Council Agenda Calendar

May 14, 2024 Closed Session: TBD Study Session: TBD		
AGENDA TITLE:	**DEPARTMENT:**	**PRIORITY:**
SPECIAL ITEMS:		
CONSENT:		
PUBLIC HEARING:		
Introduction of Development Impact Fees Ordinance	Dev. Svcs.	General
DISCUSSION ITEMS:		

Remaining 2024 City Council agenda calendar items are pending and will be published at a later date.

All items and dates are tentative and subject to change unless a specific date has been noticed for a legally required Public Hearing.
Items may be added or removed from the shown date at any time and for any reason prior to the publication of the agenda.

PROGRAM	SUB PROJECT	INITIATION DATE	HEU COMPLETION DATE	STATUS
Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).	Budget & Hire Planning Technician		December 31, 2022	COMPLETED
Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).	Amend ADU Ordinance based upon HCD's letter		6 months or less	IN-PROGRESS
Program 6.G: Housing mobility	Allow more than one JADU (at least two per site)		with ADU Ordinance Update	IN-PROGRESS
Program 3.H: Amend design review process and requirements.	Eliminate 3rd Party Architectural Review		February 28, 2023	COMPLETED
Program 3.H: Amend design review process and requirements.	Dismiss Design Review Commission		February 28, 2023	COMPLETED
Program 3.L: Eliminate the requirement of story poles.			March 31, 2023	COMPLETED
Program 2.E: Conduct annual ADU rental income surveys.	Budget & Hire Housing Manager	March 31, 2023		COMPLETED
Program 4.J: Facilitate alternate modes of transportation for	Adopt VMT Policy &		June 30, 2023	COMPLETED
Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).	RFP-Permit Ready ADU Plans		July 31, 2023	COMPLETED
Program 1.H: Facilitate housing on City-owned sites.	Financial Analysis	July 1, 2023	December 31, 2023	IN-PROGRESS
Program 3.D: Evaluate and adjust impact fees.		August 1, 2023	December 31, 2024	IN-PROGRESS
Program 1.H: Facilitate housing on City-owned sites.	Release RFP	December 31, 2023		DEVELOPING RFI/RFP
Program 6.C: Target housing development in highest resource areas.	Initial Outreach		September 31, 2023	
Program 6.D: Promote Housing Choice (Section 8) rental assistance program.			September 31, 2023	
Program 2.A: Continue to implement and enhance inclusionary housing requirements.			December 31, 2023	ONGOING
Program 2.B: Establish an affordable housing in-lieu fee and commercial linkage fee.	Housing in-lieu fee.		December 31, 2023	COMPLETED
Program 2.F: Water and Sewer Service Providers.			December 31, 2023	COMPLETED
Program 3.B: Modify building height in mixed-use zoning districts.	Downtown Districts		December 31, 2023	COMPLETED

Program 3.E: Ensure that the density bonus ordinance remains consistent with State law.			December 31, 2023	**ONGOING**
Program 3.H: Amend design review process and requirements.	Code Amendments		December 31, 2023	**COMPLETED**
Program 3.K: Standardize multimodal transportation requirements.	Bicycle Storage and Charging Regulations		December 31, 2023	**COMPLETED**
Program 3.K: Standardize multimodal transportation requirements.	Remove CSC Review of Housing Developments		December 31, 2023	**COMPLETED**
Program 4.C: Allow Low Barrier Navigation Centers consistent with AB 101.			December 31, 2023	**COMPLETED**
Program 4.D: Allow transitional and supportive housing consistent with State law.			December 31, 2023	**COMPLETED**
Program 4.E: Allow employee/farmworker housing consistent with State law.			December 31, 2023	**COMPLETED**
Program 4.F: Reasonably accommodate disabled persons' housing needs.			December 31, 2023	**COMPLETED**
Program 6.B: Maintain and expand an inventory of affordable housing funding sources.	Prepare Inventory.		December 31, 2023	
Program 6.E: Prepare and distribute anti-displacement information.			December 31, 2023	
Program 1.A: Rezone for RHNA shortfall.			January 31, 2024	**COMPLETED**
Program 1.G: Rezone housing sites from previous Housing Elements.			January 31, 2024	**COMPLETED**
Program 3.G: Amend Conditional Use Permits findings applicable to housing developments.			March 31, 2024	**COMPLETED**
Program 3.I: Allow residential care facilities consistent with State law.			January 31, 2024	**COMPLETED**
Program 3.J: Explicitly allow manufactured homes consistent with State law.			January 31, 2024	**COMPLETED**
Program 3.F: Reduce Conditional Use Permit requirement for residential mixed-use and multi-family.			September 31, 2024	**COMPLETED**
Program 1.B: Facilitate higher density housing in the Commercial Thoroughfare (CT) District.			January 31, 2024	**COMPLETED**

Program 1.C: Allow housing in the Office Administrative (OA) District.			January 31, 2024	**COMPLETED**
Program 1.E: Update the Loyola Corners Specific Plan.			January 31, 2024	**COMPLETED**
Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).	Adopt-Permit Ready ADU Plans		December 31, 2024	**IN-PROGRESS**
Program 3.A: Prepare a Downtown parking plan and update citywide parking requirements.	Downtown Parking Plan		December 31, 2024	**IN-PROGRESS**
Program 3.A: Prepare a Downtown parking plan and update citywide parking requirements.	Comprehensive Parking Ordinance Update		December 31, 2024	**COMPLETED**
Program 3.B: Modify building height in mixed-use zoning districts.	Neighborhood (CN) District		December 31, 2024	**COMPLETED**
Program 3.C: Remove floor-to-area ratio (FAR) restriction at Rancho Shopping Center and Woodland Plaza.			December 31, 2024	**COMPLETED**
Program 3.M: Modify parking requirements for emergency shelters consistent with State law.			December 31, 2024	**COMPLETED**
Program 2.B: Establish an affordable housing in-lieu fee and commercial linkage fee.	Commercial linkage fee.	December 31, 2025		**IN-PROGRESS**
Program 1.D: Allow housing on certain Public and Community Facilities District sites and facilitate housing on religious institution properties.			December 31, 2025	
Program 6.G: Housing mobility	Allow housing on all religious sites within the City		December 31, 2025	
Program 1.F: Rezone Village Court parcel.			January 31, 2024	**COMPLETED**
Program 4.H: Provide additional density bonuses and incentives for housing that accommodates special needs groups.			December 31, 2025	
Program 4.I: Allow senior housing with extended care facilities in multi-family and mixed-use zoning districts.			December 31, 2025	
Program 1.I: Incentivize Downtown lot consolidation.			July 31, 2026	

Program 4.G: Assist seniors to maintain and rehabilitate their homes.			July 31, 2026	
Program 6.C: Target housing development in highest resource areas.	Follow-up Outreach		September 31, 2026	
Program 1.H: Facilitate housing on City-owned sites.	Entitlement Review		December 31, 2026	
Program 3.N: Modify standards in the R3 zoning districts.			December 31, 2026	**COMPLETED**
Program 4.J: Facilitate alternate modes of transportation for residents.	Capital Improvement Project for above head pedestrian crossing signals on San Antonio Road near Downtown Los Altos		December 31, 2027	
Program 5.F: Incentivize the creation of play areas for multi-family housing projects.			December 31, 2027	
Program 1.K: Participate in regional housing needs planning efforts.			Ongoing	
Program 1.L: General Plan amendments.			Ongoing	
Program 1.M: SB 9 implementation.			Ongoing	
Program 1.N: Facilitate and monitor pipeline housing projects.			Ongoing	
Program 2.C: Assist in securing funding for affordable housing projects.			Ongoing	
Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).			Ongoing	
Program 2.E: Conduct annual ADU rental income surveys.	Annual Survey		Annually	**ONGOING**
Program 4.A: Support efforts to fund homeless services.			Ongoing	
Program 4.B: Continue to participate in local and regional forums for homelessness, supportive, and transitional housing.			Ongoing	
Program 5.A: Monitor condominium conversions.			Ongoing	

Program 5.B: Continue to administer the City's affordable housing programs.			Ongoing	
Program 5.C: Restrict commercial uses from displacing residential neighborhoods.			Ongoing	
Program 5.D: Implement voluntary code inspection program.			Ongoing	
Program 5.E: Help secure funding for housing rehabilitation and assistance programs.			Ongoing	
Program 6.A: Assist residents with housing discrimination and landlord-tenant complaints.			Ongoing	
Program 6.B: Maintain and expand an inventory of affordable housing funding sources.	Inform, Evaluate Apply/Submit		Ongoing	
Program 6.F: Affirmatively market physically accessible units.			Ongoing	
Program 7.A: Promote energy and water conservation and greenhouse gas reduction through education and awareness campaigns.			Ongoing	
Program 7.B: Monitor and implement thresholds and statutory requirements of climate change legislation.			Ongoing	

Agenda Item # 11.

590 W. El Camino Real
Mountain View, CA 94040
Phone: (650) 965-2020
Fax: (650) 965-7286
www.chacmv.org

To: **CHAC JPA Member Agencies**
From: **Anne Ehresman, Interim Executive Director**
Date: **April 4, 2024**
Re: **Organizational Update**

Over the past year, CHAC embarked on a critical journey to secure future access to mental health supports in our community. Built on five decades of unwavering commitment to children and families, this endeavor led us to explore various avenues to ensure the continuity and availability of services in a changing funding environment.

Following completion of a comprehensive Strategic Sustainability Planning Report in January 2024, and the determination/realization no sustainable financial path forward exists for CHAC as a standalone entity, we selected a partner to help ensure much needed mental health services will continue to be provided in our community in a sustainable model.

On March 11, 2024, CHAC signed a letter of intent with Pacific Clinics, a highly regarded non-profit agency with a 150-year history in Santa Clara County. Pacific Clinics offers children, youth, adults and families behavioral health, early education, and support services in schools, around the community and at home. The organizations are meeting regularly to complete due diligence and explore a transfer of assets. It is the express goal of the parties to finish due diligence, negotiate an agreement and accomplish the transfer of assets by the end of this fiscal year.

CHAC will provide another update once the terms of the transfer are finalized. As you may be aware, CHAC is a joint powers authority (JPA) that was created in 1973. It is unique because it also has nonprofit status. CHAC has commenced an introductory series of meetings with representatives of each member of the JPA to provide an update on the process and discuss the future of the JPA. Once the transfer of assets is approved by the CHAC Board of Directors, CHAC will focus on winding down the affairs of the joint powers authority. CHAC anticipates bringing an item to the board or council of each member to terminate the agreement and dissolve the JPA.